

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEW JERSEY
3 CIVIL ACTION NO. 83-2864 SA

4 ANTONIO CIPOLLONE, individually :
5 And as Executor of the Estate of :
6 ROSE D. CIPOLLONE, :

7 Plaintiff, :
8 vs. :

Deposition of:

9 HAROLD H.
10 KASSARJIAN

11 LIGGETT GROUP, INC., a :
12 Delaware corporation; PHILIP :
13 MORRIS INCORPORATED, a Virginia :
14 Corporation; LOEW'S THEATRES, :
15 INC., a New York corporation, :

16 Defendants. :
17 -----
18

19 TRANSCRIPT of testimony as taken by and
20 before MARGARET J. TEILHABER, a Certified
21 Shorthand Reporter and Notary Public of the States
22 of New York and New Jersey, at the offices of
23 WEBSTER & SHEFFIELD, 237 Park Avenue, New York,
24 New York, on Wednesday, October 28, 1987.
25

26 A P P E A R A N C E S:

27 BUDD LARNER GROSS PICILLO ROSENBAUM
28 GREENBERG & SADE
29 150 John F. Kennedy Parkway
30 Short Hills, New Jersey 07078
31 BY: MARC Z. EDELL, ESQ.
32 For the Plaintiff
33

34 waga and spinelli
35 certified shorthand reporters

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201-731-9666

2017006641

1 A P P E A R A N C E S: (Continued)

2 WEBSTER & SHEFFIELD
3 237 Park Avenue
4 New York, New York 10017
5 BY: JAMES H. GIANNINOTO, ESQ.
6 TREVOR O'NEILL, ESQ.
7 For Liggett Group, Inc.

8 SHOOK, HARDY & BACON
9 20th Floor
10 Mercantile Bank Tower
11 1101 Walnut
12 Kansas City, Missouri 64106
13 BY: STEVEN C. PARRISH, ESQ.
14 For Philip Morris, Inc. and Lorillard, Inc.

15 BROWN, CONNERY, KULP, WILLE,
16 PURNELL & GREENE
17 Parkade Building
18 518 Market Street
19 P.O. Box 1449
20 Camden, New Jersey 08101
21 BY: RAYMOND F. DROZDOWSKI, ESQ.
22 For Philip Morris, Inc.

23 ARNOLD & PORTER
24 1200 New Hampshire Avenue, N.W.
25 Washington, D.C. 20036
BY: PETER K. BLEAKLEY, ESQ.
THOMAS E. SILFEN, ESQ.
For Philip Morris, Inc.

STRYKER, TAMS & DILL
33 Washington Street
Newark, New Jersey 07102
BY: WILLIAM TUCKER, ESQ.
For Lorillard, Inc.

21 ALSO PRESENT:

22 Michele Brown
23
24
25

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I N D E XWITNESSDIRECT

HAROLD H. KASSARJIAN

By Mr. Edell:

4

E X H I B I T SNUMBERDESCRIPTIONIDENTIFICATION

Kassarjian-1

Article entitled
Cognitive Dissonance
and Consumer Behavior

34

Kassarjian-2

Excerpts of deposition
of Joel Cohen taken on
August 19, 20 and 21,
1987

121

Kassarjian-3

Document entitled Themes
and Tactics in Cigarette
Advertising, 1938 - 1983;
Technical Report on
Methods and Measures by
Richard W. Pollay,
Summer 1987

209

Kassarjian-4

Document entitled Themes
and Tactics in Cigarette
Advertising, 1938-1983;
Technical Report on
Methods and Measures
(Revised), July 9, 1987

229

Kassarjian-5

Xerox of ten cigarette
advertisements

234

Kassarjian-6

1-page vita and cover page

254

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1 H A R O L D . H. K A S S A R J I A N,

2 [DELETED]

3 sworn.

4 DIRECT EXAMINATION

5 BY MR. EDELL:

6 Q. Dr. Kassarian, my name is Marc
7 Edell. I'm an attorney. I represent the
8 plaintiff. Have you ever been deposed before?

9 A. Yes.

10 Q. Do you understand the nature and
11 purpose of a deposition?

12 A. Yes, I do, more or less.

13 Q. Did you have an opportunity and did
14 you speak with any of the lawyers representing the
15 defendants in this case?

16 A. I've talked to them but not on the nature
17 and purpose of a deposition.

18 Q. Let me just give you some ground rules
19 so that we all at least have some basic
20 understanding of what's going to happen here
21 today. I'll ask you some questions concerning
22 your background, your opinions, your experience,
23 some of your papers. If any of my questions are
24 unclear, if you don't understand them, they don't
25 make any sense, tell me and I'll try to rephrase

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1 the question. - If you don't recall a fact or if
2 you don't know the facts which would be responsive
3 to a question, tell me because we are going to
4 presume that when you answered a question that you
5 understood it and you're accurately responding to
6 it. If at any point in time you want to take a
7 break for any reason, let me know and I'll be
8 happy to accommodate. Do you understand that
9 everything that you and I and everyone else in
10 this room may say will be taken down by this young
11 lady to your left who is a certified shorthand
12 reporter and that the testimony that you give here
13 today can under certain circumstances be used at
14 the time of trial?

15 A. Yes, I do.

16 Q. What is your area of expertise?

17 A. I'm a professor at the graduate school of
18 management. I specialize in consumer behavior.

19 Q. What is consumer behavior?

20 A. It's the study of the behavior of
21 individuals in the marketplace.

22 Q. How long have you been specializing in
23 the study of consumer behavior?

24 A. My entire career.

25 Q. Are there other people in the field of

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Kassarjian - direct

1 consumer behavior who you recognize as experts?

2 A. Yes. I would say fifty to a hundred of
3 them.

4 Q. Do you know Joel Cohen?

5 A. Yes.

6 Q. Do you consider Joel Cohen to be one
7 of the experts in the field of consumer behavior?

8 A. Yes.

9 Q. Can you tell us the purpose of content
10 analysis?

11 A. It's an attempt to quantify communications
12 material to categorize it and quantify so we get a
13 better idea, better understanding of what it
14 means.

15 Q. What are the purposes for performing
16 content analysis?

17 A. There are times when you cannot ask people's
18 opinions. For example, if we wanted to get an
19 idea of the opinion of New Yorkers during the
20 Revolutionary War, we really cannot ask Gallup to
21 go out and do a survey so one thing we can do is a
22 content analysis of letters to the editor that
23 might have been written in the local newspapers.
24 We can do a content analysis of the newspaper
25 articles and attempt to draw conclusions or

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Kassarjian - direct

1 assumptions about what might have been at some
2 other time, so that's one possible use. There are
3 others.

4 Q. You performed a number of content
5 analyses, have you not, sir?

6 A. Yes.

7 Q. Is content analysis a recognized tool
8 in the area of consumer behavior?

9 A. Yes, it is.

10 Q. For how long a period of time has that
11 been so?

12 A. The methodology has been there since World
13 War II, even before World War II, but it was not
14 picked up in consumer research and consumer
15 behavior until the middle 1970s, early 1970s,
16 about 15 years, say.

17 Q. Have you ever performed a content
18 analysis with respect to advertising?

19 A. Yes, I have.

20 Q. For what purpose?

21 A. I wanted to see what the changing role of
22 blacks were in our society from 1946 through 1979,
23 I think it was.

24 Q. The use of content analysis with
25 respect to advertising can help us decide whether

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Kassarjian - direct

8

1 or not an ad is deceptive. Is that correct?

2 MR. BLEAKLEY: Objection to the form
3 of the question.

4 THE WITNESS: That means I can answer
5 it?

6 MR. BLEAKLEY: Yes.

7 A. No, it has nothing to do with deception.
8 Content analysis can merely tell you what is
9 objectively in the message itself. Deception
10 involves perception of individuals and content
11 analysis does not measure perception of
12 individuals.

13 Q. Can content analysis be used to
14 determine the apparent intent of the advertising?

15 A. It depends on what one means by apparent
16 intent. You can make assumptions about the intent
17 but it is not a study of the intent of the
18 communicator or the perception of the
19 interpreter. It is a study of merely what is
20 there, objectively what is there.

21 Now, for example, if we see that all
22 the, every time a black appears he appears in a
23 secondary role in an ad, we can say well, it may
24 have been the intent of the advertiser or the
25 advertising agency to treat blacks as second-class

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Kassarjian - direct

1 citizens but that's not what the study is doing.
2 All the study is telling you is the role of the
3 black.

4 Q. Can a content analysis of advertising
5 reflect the appeals in advertising?

6 MR. BLEAKLEY: Objection to the form
7 of the question.

8 A. If appeals means the content, the
9 substantive content of the ad, yes. If appeals
10 mean how people were influenced or the intent of
11 the creator of the ad, then no.

12 Q. Can content analysis of advertising
13 reflect the types of claims being made in the ads?

14 A. Depending on the definitions, yes.

15 Q. What definition of claims would you
16 consider to be one that would permit the content
17 analysis to reveal the types of claims being made?

18 MR. BLEAKLEY: Objection to the form
19 of the question.

20 A. I just don't know what the word types of
21 claims means. I'm trying to answer your question
22 and yet I don't exactly understand what you mean
23 by types of claims.

24 Q. Let me see if I can make it a little
25 more clear, then. You've written papers on

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Kassarjian - direct

1 content analysis. Is that correct?

2 A. Yes, I have.

3 Q. Did you go over those papers with any
4 of the lawyers in this case?

5 A. The paper you are looking at is a 1977 paper
6 in the Journal of Consumer Research. In fact, I
7 recognize it up upsidedown. I don't remember, I
8 really don't remember talking about that paper to
9 lawyers, in the recent past at least.

10 Q. Do you recall stating that the
11 methodology of content analysis allows for
12 reliable, valid and quantitative answers to
13 questions such as do certain advertisers engage in
14 the use of certain types of themes, appeals,
15 claims or deceptive practices more than other
16 advertisers or agencies?

17 A. Yes.

18 Q. Do you still believe that that's so?

19 A. That's fine the way I've defined those
20 terms. I just don't know how you are defining
21 them.

22 Q. How do you define themes?

23 A. Themes is the major message that's coming
24 across in the ad.

25 Q. How do you define appeals?

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Kassarjian - direct

1 A. I don't see much difference between those
2 two words.

3 Q. How did you use appeals in the context
4 of your statement in the 1977 paper in the Journal
5 of Consumer Research?

6 A. That was written a dozen years ago. I think
7 I was just stringing along words. That's all.

8 Q. How did you use the term claims?

9 A. Claims meaning what the claim of the
10 advertiser was.

11 Q. What did you mean by deceptive
12 practices?

13 A. I don't know. I don't remember what I meant
14 by it then. If the deceptive practice means
15 something to do with the claims or the appeal or
16 the theme of the ad, then we can do it. If it
17 means somehow perception by the consumer, then we
18 can't.

19 Q. Do you recall making the statement
20 that the methodology of content analysis allows
21 for reliable, valid and quantitative answers to
22 questions such as what the advertiser's apparent
23 intent was?

24 A. Yes. Notice apparent intent. We are making
25 assumptions or hypotheses of intent. We cannot

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Kassarjian - direct

1 measure intent of the advertiser. It just does
2 not measure that.

3 Q. Do you also recall stating that the
4 methodology of content analysis allows for
5 reliable, valid and quantitative answers with
6 regard to the question of who the advertiser's
7 apparent audience was?

8 A. We can make assumptions about the apparent
9 audience. The critical word is apparent, meaning
10 assume, hypothesis, not fact.

11 Q. It's an assumption, however, based
12 upon a research methodology, is it not?

13 A. Yes.

14 Q. In the field of consumer behavior, you
15 make assumptions all the time based upon research
16 methodology such as content analysis, do you not?

17 MR. BLEAKLEY: Objection to the form
18 of the question.

19 A. I presume we sometimes make assumptions.
20 Sometimes we don't. I don't know what that
21 means. It's so broad, I can't deal with it.

22 Q. Is there any exact way to determine
23 the apparent intent of a advertiser?

24 A. No, outside of putting the advertiser on a
25 couch and hoping one can somehow measure the

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Kassarjian - direct

1 motivation of the advertiser. What we really mean
2 is the communicator, the creator of the ad. If by
3 advertiser, we mean a corporation, how do you put
4 a corporation on a couch. If by advertiser we
5 mean a copywriter, we can put him on a couch.
6 What we need to do to find out his intent is to
7 find out something about his own motivation.

8 Q. Did you attempt to conduct a content
9 analysis with respect to advertising in this case?

10 A. No, I did not.

11 Q. Did you review any advertising with
12 regard to this case?

13 A. I saw about a half a dozen or a dozen ads
14 that were handed to me.

15 Q. Did you perform any content analysis
16 of those ads?

17 A. I did not do a formal content analysis of
18 any ads.

19 Q. Did you perform any content analysis?

20 A. If looking at it is called a content
21 analysis, I looked at it but that's all.

22 Q. What's the difference between a
23 content analysis in terms of it being a research
24 methodology and reading an ad?

25 A. That's what I meant by formal, which you

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Kassarjian - direct

1 didn't distinguish, formal, informal. A formal
2 content analysis is a research tool, a method to
3 objectively quantify whatever it is we are looking
4 for in an ad. It's a quantitative method. It
5 produces numbers, statistics and so on.

6 An informal content analysis or
7 reading an ad as you say is someone who goes to
8 the library, looks at a bunch of ads, a reporter
9 goes back and looks at them and then using his own
10 biases and his own view of the world emerges with
11 some could be very perceptive conclusions about
12 how advertising has changed or communication or
13 what was it that Stalin was really, really
14 saying.

15 But the difference is reliability and
16 validity. The difference is the quantification,
17 the attempt to make it quantifiable, reliable,
18 repeatable, scientific rather than reportorial,
19 whatever a reporter does, or individualistic. Not
20 that I want to take away from a good reporter that
21 can look at data and say something by any means.
22 It's just a different approach.

23 Q. In the field of consumer behavior,
24 would you use as a research tool both a formal and
25 informal content analysis?

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Kassarjian - direct

1 A. No. We would not accept the informal as
2 scientific under our present philosophy of
3 science. We are logical positivistic primarily
4 and that demands quantitative reliable data behind
5 it so the personal interpretation that a reporter
6 might be, we generally do not accept as
7 scientific. We call that a case study.

8 Q. Why would you not use that in trying
9 to assess consumer behavior?

10 A. There's nothing wrong with it. It's just
11 not an accepted scientific practice as of yet.
12 The times influence much of what we do. There's a
13 time to do research on physics and there's a time
14 to study relativity and there's a time to believe
15 the earth is flat and there's a time to do
16 research the way we do it.

17 Q. Is a part of consumer behavior concern
18 with an understanding of people's beliefs,
19 consumers' beliefs?

20 MR. BLEAKLEY: Objection to the form
21 of the question.

22 A. The study of attitudes and beliefs are part
23 of the field of consumer behavior.

24 Q. Are formal content analysis used in
25 consumer behavior in determining consumer

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Kassarjian - direct

1 attitudes and beliefs?

2 A. No.

3 Q. What tools do you use in the field of
4 consumer behavior to determine consumers'
5 attitudes and beliefs?

6 A. Public opinion polls would be useful, some
7 laboratory experimentation is used at times,
8 questionnaires of one form or another.

9 Q. You were talking before about how you
10 would go about determining an advertiser's intent
11 and you said bring them in the office and put them
12 on a couch and I guess it's the closest distance
13 between the feet, the buttocks and the head theory
14 by putting them on the couch.

15 A. You read that, too.

16 Q. With much interest, sir. In any
17 event, we put the individual on the couch and we
18 ask them questions concerning their intent. Can
19 we also do it by looking at internal documents to
20 see what the intent of the advertiser was?

21 MR. BLEAKLEY: Objection to the form
22 of the question.

23 A. Internal documents?

24 Q. Sure. In other words --

25 A. I don't know what that means.

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Kassarjian - direct

1 Q. If the advertiser prepared a
2 memorandum memorializing what they were intending
3 to do, would that help you understand the intent
4 of the advertising?

5 A. I would have to see it because if you are
6 talking about stuff that might be in files -- are
7 we in the same ballpark?

8 Q. Yes, sure.

9 A. I don't know what these things are and I
10 wouldn't be able to deal with it. I do know that
11 marketing people and advertising people sometimes
12 come out with pretty off-the-wall ideas that end
13 up in memos they send around and so I have no
14 idea. Sometimes they say awfully screwy things to
15 impress the boss or their secretary or somebody
16 and so I have no idea what you are referring to.

17 Q. How do you know that that's so, sir?

18 A. Pardon?

19 Q. How do you know that that's so, that
20 they say those screwy things?

21 A. I talk to advertising people all the time.

22 Q. Have you made studies of their
23 internal documents?

24 A. No.

25 Q. Have you ever worked in an advertising

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Kassarjian - direct

1 firm?

2 A. No, I have not.

3 Q. Have you ever seen any internal
4 documents of any advertising or public relations
5 firm?

6 A. Nothing that I can particularly remember.
7 On the other hand, I want to leave a loophole just
8 in case I have seen them and don't remember. I
9 worked for the Federal Trade Commission and at
10 times we went through mountains of stuff and and
11 who knows what the hell I've seen.

12 Q. What work did you do for the Federal
13 Trade Commission?

14 A. I was a consultant to the commissioner's,
15 particularly Mary Gardner Jones but to the other
16 commissioners as well and to the Bureau of
17 Advertising, Division of Advertising.

18 Q. Did you offer testimony in any matters
19 on behalf of the Federal Trade Commission?

20 A. I have but not while working for them full
21 time.

22 Q. What matters have you offered
23 testimony on?

24 A. One of these was the Sears batteries, the
25 Diehard battery. Another one is Sears

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Kassarjian - direct

1 dishwashers. The Teledyne water pik is well known
2 because some of the firms handle that. That's all
3 I can remember for the Federal Trade Commission.

4 Q. Did any of those matters concern
5 deceptive advertising?

6 MR. BLEAKLEY: Objection to the form
7 of the question.

8 A. The claim was that it was deceptive
9 advertising.

10 Q. Did you conclude in any of those
11 matters that there was deceptive advertising?

12 MR. BLEAKLEY: Objection to the form
13 of the question.

14 A. Yes.

15 MR. EDELL: What's wrong with the form
16 of the question?

17 MR. BLEAKLEY: What do you mean by
18 deceptive advertising?

19 Q. What do you mean by deceptive
20 advertising, sir?

21 A. That's a very difficult question to answer.
22 There's quite a bit of literature attempting to
23 define what that means. My own working
24 definition, and I don't want to get into it and
25 have a big long discussion on who said what, but

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Kassarjian - direct

1 my own definition is that advertising material
2 that simply is not true. It's misleading in one
3 form or another.

4 Q. In which matter or matters did you
5 determine that there was deceptive advertising?

6 A. I felt that some of the claims made for the,
7 the implications made in the advertising for Sears
8 batteries, that is, it would leave an impression
9 in the minds of the consumer that it was not true.

10 Q. Upon what information did you base
11 that determination?

12 A. Knowledge of what the facts were.

13 Q. What were the facts in that case that
14 you based your opinion on that there was deceptive
15 advertising?

16 A. You want me to go into detail on this?

17 Q. Yes, please.

18 A. One of the ads, for example, you may
19 remember them, had twelve cars or a bunch of cars
20 on a winter scene in the snow all lined up with
21 their lights left on and then the lights go out
22 and then it's one battery light that lasts the
23 longest. In another one it's a winter scene and
24 people try to start their car and only one of them
25 starts. We were carefully told that was a Sears

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Kassarjian - direct

1 Diehard.

2 What the viewer was not told if I remember
3 the case correctly was that it's true that only
4 one was a brand new freshly charged Diehard. The
5 others were two-year old batteries that had not
6 been freshly charged. That left an impression in
7 my opinion in the mind of the viewer of the ad
8 that the Diehard was a superior battery. It may
9 or may not have been a superior battery but I use
10 those facts to determine that it was leaving an
11 impression that the Diehard was a superior
12 battery.

13 Q. Did you perform any surveys in order
14 to see what impression was left with the consumer
15 with regard to those advertisements?

16 A. I myself did not.

17 Q. Did anyone?

18 A. I believe Sears had surveys done, yes.

19 Q. Did you review those surveys?

20 A. I most likely did. I don't remember.

21 Q. Did you consider those surveys to be
22 valid or invalid?

23 MR. PARRISH: Object to the form of
24 the question.

25 A. No survey is perfectly valid. Many surveys

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Kassarjian - direct

1 are pretty crappy. I don't remember if I felt
2 they were reasonably done or not but you can pick
3 holes in any study as you well know.

4 Q. I'm well aware of that.

5 A. I suppose you've done it. Okay.

6 Q. Or I've had it done to me. Why did
7 you not think it was necessary to perform a study
8 to see what people who saw these Sears ads thought
9 was being conveyed by the advertisement?

10 MR. BLEAKLEY: Objection to the form
11 of the question.

12 A. Because in my 25, 30 years of experience in
13 this field, because of thousands of studies I've
14 seen and read, I felt that I could make a reasoned
15 conclusion on how consumers would perceive and
16 behave towards an ad without having done a study.
17 I didn't think a study was necessary. It's not
18 always necessary.

19 Q. How do you know when a study is or is
20 not necessary?

21 A. If somehow I can feel comfortable in stating
22 I know what consumers would do based on many other
23 studies, based on many years of experience. Then
24 I can go ahead and give a statement on it.

25 Q. So you could look at the Sears Diehard

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Kassarjian - direct

1 battery ads and conclude how those ads would be
2 interpreted by consumers. Is that correct?

3 A. I felt that I could make a statement as to
4 what I thought the average consumer would perceive
5 in that ad, yes.

6 Q. By simply looking at the
7 advertisement. Is that correct?

8 A. Yes.

9 Q. That was based upon your 25 years of
10 experience?

11 A. Well, and hundreds if not thousands of
12 articles and studies I've read.

13 Q. Would a content analysis of
14 advertising have helped in performing your task of
15 deciding whether the advertising was or was not
16 deceptive?

17 A. No. Deception involves how an ad will be
18 perceived by the average consumer, the intelligent
19 consumer, the stupid consumer, whatever segment of
20 consumer. A content analysis can only tell you
21 what is in the ad itself. It's not a perception
22 variable.

23 Q. Did you review any content analysis in
24 this case other than that performed by Professor
25 Polley?

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Kassarjian - direct

1 A. I saw two Xerox copies of two articles which
2 I very quickly skinned a couple of years ago and I
3 don't remember if they were a content analysis or
4 not.

5 Q. I show you what has been marked Sudman
6 2 for identification. Have you ever seen that
7 before?

8 A. No. I don't know what all this is. I've
9 never seen this.

10 Q. If you were going to perform a content
11 analysis of articles in the New York Times from
12 1948 through 1985 with respect to health dangers
13 of cigarette smoking, how would you do it?

14 MR. FARRISH: Object to the form of
15 the question.

16 A. You want me sitting here to design a study
17 that might take several days and weeks to figure
18 out in order to get it accurately? I think that's
19 asking an awful lot of me.

20 Q. What would you do to start out?

21 MR. SILFEN: Object to the form of the
22 question.

23 A. My first question would be I would want to
24 know what are we doing, why are we doing it, what
25 are we looking for, what is it that we want to

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Kassarjian - direct

1 find out.

2 Q. We are trying to find out the
3 awareness of the public with regard to the health
4 dangers of cigarette smoking during the years 1948
5 through 1985.

6 MR. BLEAKLEY: Objection to the form
7 of the question.

8 A. Content analysis does not measure awareness
9 of the public of anything. What it will do is it
10 will tell you how many articles may have been
11 written and what the articles may have been
12 about. From there, one must assume that if there
13 have been lots of articles written on the topic
14 and the medium has a lot of readers, that people
15 have seen it, but content analysis in and of
16 itself can only tell you how often an article has
17 been written, how many there were.

18 Q. So we don't have to spend the day
19 designing the study, if my object was to try to
20 find out what the public's awareness was with
21 regard to health hazards of cigarette smoking, you
22 would not be able to design a content analysis to
23 accomplish that. Is that correct?

24 A. No, that's not what I said.

25 Q. Would you be able to conduct an

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Kassarjian - direct

1 analysis to ascertain what the awareness was of
2 the public with regard to the health dangers of
3 cigarette smoking by looking at newspaper
4 articles?

5 MR. FARRISH: Object to the form of
6 the question.

7 A. By looking at newspaper articles, what I can
8 tell you is how many articles were published in
9 any given month, year, what the content of that
10 article was and what it was, what it was saying,
11 and I can tell you by looking at other types of
12 figures, circulation figures, how many people were
13 exposed to that, so I can tell you how many
14 articles were published, how many people were
15 exposed to it but I cannot tell you what any
16 single individual saw, didn't see, understood or
17 didn't understand.

18 Q. How would you go about performing the
19 content analysis of the article itself to see what
20 it said?

21 A. First I would sit down and try to develop a
22 series of categories of what it is I'm measuring.
23 For example, if my study is on blacks, I first had
24 to define what a black is, how can you tell one
25 when you see one and develop categories of what

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Kassarjian - direct

1 blackness meant, flat nose, protruding sinus, dark
2 skin, large lips.

3 Q. With regard to health dangers, would
4 we have to define what we meant by health
5 dangers?

6 MR. SILFEN: Object to the form of the
7 question.

8 A. I don't know what you are looking for in
9 this kind of a study so I would have to know what
10 it is you would want to see and then I'd try to
11 develop categories to see if these were there.

12 Q. What I was trying to do is find out
13 what the awareness was of the public with regard
14 to health dangers associated with cigarette
15 smoking.

16 MR. BLEAKLEY: Object to the form of
17 the question.

18 A. Content analysis will only tell you what the
19 themes of the ad is, the content of the ad. It
20 does not measure directly awareness.

21 Q. I thought that you said that
22 recognizing that you cannot measure awareness per
23 se, you could still use a content analysis of
24 articles to help you determine what the awareness
25 was of people during a certain time period

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Kassarjian - direct

1 concerning the health hazards of cigarettes. Am I
2 incorrect?

3 MR. BLEAKLEY: Objection to the form
4 of the question.

5 A. You are switching it on me. You are saying,
6 I'm telling you you can't measure awareness
7 directly and I'm also telling you that you can use
8 that information to make assumptions about what
9 the awareness was.

10 Q. If we want to use the content analysis
11 to make assumptions as to what the awareness was
12 concerning the health dangers of cigarette
13 smoking, how would you go about categorizing
14 information in the articles?

15 MR. BLEAKLEY: Objection to the form
16 of the question.

17 A. I cannot, sitting here under the very
18 specific conditions of a deposition, design a
19 scientific study at the moment. This is something
20 I would have to spend several weeks on, some time
21 on, I don't know, a week, a day, but surely not
22 under the tense conditions of a deposition can I
23 be that creative. I just ain't that smart.

24 Q. Would one of the things that you would
25 want to do is define what was meant by health

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Kassarjian - direct

1 dangers?

2 MR. BLEAKLEY: Objection to the form
3 of the question.

4 A. Yes.

5 Q. Why was that?

6 A. I have to know what you are looking for.

7 Q. It wouldn't be enough to just simply
8 say health dangers to put that in a category
9 without defining what would fall within that
10 category?

11 MR. BLEAKLEY: Objection to the form
12 of the question.

13 A. No.

14 MR. BLEAKLEY: Give me a chance to
15 interpose my objection, Professor Kassarjian,
16 before you answer.

17 Q. Why is that?

18 A. I have to know what we are looking for. I
19 have to create categories. I have to define
20 categories very precisely and the word health
21 danger is not a particularly precise definition of
22 anything.

23 Q. Could you read an index to, for
24 example, the New York Times for the years 1948
25 through 1985, count out the number of articles

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Kassarjian - direct

1 that dealt with health dangers of cigarette
2 smoking and draw any conclusions with regard to
3 the awareness of the public concerning the health
4 dangers of cigarette smoking?

5 MR. BLEAKLEY: Objection to the form
6 of the question.

7 A. I don't know what the definition of health
8 danger is used by the guide to periodicals,
9 whatever you said. If I knew that, then I could
10 start making some assumptions that based on that
11 definition, I could then make assumptions about
12 what it was, yes.

13 Q. But you would have to know what the
14 definition of health danger was first?

15 A. In order to make any rational conclusion, I
16 would have to know what that word means.

17 Q. What's cognitive dissonance?

18 A. It's a theory that was popular about thirty
19 years ago on how people balanced their values and
20 attitudes and tried to stay consistent in their
21 belief systems.

22 Q. It's not a popular theory today?

23 A. There isn't much research on it. It's
24 floating around. You find it in textbooks.

25 Q. Do you believe that cognitive

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Kassarjian - direct

1 dissonance has a place in consumer behavior?

2 MR. BLEAKLEY: Objection to the form
3 of the question.

4 A. Yes. It should be a few pages, in any
5 textbook on consumer behavior there ought to be
6 something about cognitive dissonance. It had its
7 place in the history of the field.

8 Q. It's your testimony that it doesn't
9 have any valid purpose today in the field of
10 consumer behavior other than from an historical
11 perspective. Is that correct?

12 MR. BLEAKLEY: Objection to the form
13 of the question.

14 A. No, it isn't.

15 Q. Sir?

16 A. It is not. That is, I disagree with what
17 you said. I'm not sure how the question was
18 worded.

19 Q. How can cognitive dissonance be used
20 today to understand consumer behavior?

21 A. There are many, many approaches one can take
22 to understand human behavior. It's such a complex
23 phenomenon. There are many, many theories.
24 Learning theory is floating around, Freudian
25 theory is there with egos, libidos and superegos.

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Kassarjian - direct

1 There's a lot of work on conditioned response and
2 how one consumer can be conditioned through music
3 to like a product. There's a series of
4 social-psychological theories. One of these sets
5 of theories are called balanced theories. There's
6 several of those. One of those balanced theories
7 is Festinger's theory of cognitive dissonance so I
8 don't want to reject it. It's another way of,
9 another approach to understanding human behavior.
10 Each of them take a little bit of the field and
11 try to feel with it and explain that and that's
12 its place.

13 Q. Do you subscribe to the theory of
14 cognitive dissonance?

15 MR. BLEAKLEY: Objection to the form,
16 of the question.

17 A. I'm not sure what subscribe means. It was
18 great fun at the time. I wrote an article on it
19 and became famous. That was enough to subscribe
20 to it, I suppose, but today I just see it as
21 another point of view that can be used in some
22 cases and makes sense in other cases. In some
23 cases it doesn't make a lot of sense. It's just
24 another interesting idea.

25 Q. Which paper is it that you wrote on

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Kassarjian - direct

1 cognitive dissonance that made you famous?

2 MR. BLEAKLEY: Objection to the form
3 of the question.

4 A. I didn't quite mean it in that kind of an
5 inmodest way. I was trying to make fun of
6 myself. There's a paper that I'm sure you must
7 have called California Management Review about
8 1965, '66.

9 Q. Did you use cognitive dissonance in
10 evaluating behavior in that case?

11 MR. BLEAKLEY: Objection to the form
12 of the question.

13 A. That study was an attempt to introduce
14 cognitive dissonance which had been known in
15 social psychology for about a decade, no, half a
16 decade before, to the field of marketing and to
17 the field of management saying that there's a
18 theory out here that under some conditions might
19 find useful, and to explain that theory, we did a
20 little study on people's reactions using students,
21 people's reactions to the surgeon general's
22 report, the 1964 report on the dangers of smoking
23 and health I think it was galled. And that
24 surgeon general's report was used as a vehicle in
25 order to introduce cognitive dissonance theory,

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Kassarjian - direct

1 Festinger's theory to the management community and
2 that's what the purpose of it was.

3 Q. Do you still believe that the
4 conclusions in that paper are valid today?

5 MR. BLEAKLEY: Objection to the form
6 of the question.

7 A. It's too broad a question. I don't know
8 what conclusions you mean.

9 Q. Is there anything that you wrote in
10 that paper that you disagree with today?

11 MR. BLEAKLEY: Objection to the form
12 of the question.

13 A. I have no idea. There must be 10,000 words
14 in that article. I have no idea if there were
15 three or four words in a row that I would disagree
16 with or not disagree with.

17 MR. EDELL: With the understanding
18 that any writings on this are mine, they really
19 are only lines or highlighting, I would like to
20 show you this copy.

21 (Kassarjian Exhibit 1 marked for
22 identification.)

23 Q. I show you what has been marked
24 Kassarjian 1. Is that the paper that we were
25 talking about, sir?

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Kassarjian - direct

1 A. Yes.

2 Q. Could you tell me what, if anything,
3 you disagree with in that paper today?

4 MR. BLEAKLEY: Objection to the form
5 of the question.

6 A. I was just thinking how young and beautiful
7 Joel Cohen and I were a quarter century ago. Are
8 you serious? Do you want me to go through this
9 thing and find which word I object to 25 years
10 later?

11 Q. Please.

12 A. Now?

13 Q. Yes.

14 A. In the next ten minutes?

15 MR. BLEAKLEY: Objection.

16 Q. In the next four or five or six or ten
17 hours.

18 MR. BLEAKLEY: Objection to the form
19 of the question.

20 A. I have no idea which of these phrases I
21 disagree with today.

22 Q. If you prefer, I'll read every
23 sentence to you but I think it would be easier for
24 everybody that you read it yourself and you tell
25 me what, if anything, you disagree with in that

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Kassarjian - direct

1 paper today.

2 MR. BLEAKLEY: Objection to the form
3 of the question.

4 A. It would be a lot easier if you would point
5 out a sentence that you've got in mind and then
6 ask me if I agree or disagree with that today.
7 Why don't we do it that way because reading any
8 set of words or any sentence out of context and
9 asking me if I agree with that depends entirely on
10 what it's to be used for.

11 Q. That's why I don't want to take
12 anything out of context. In the context of your
13 paper, I want to know what, if anything, you
14 disagree with today.

15 A. I don't remember. I cannot answer your
16 question. I'm unable to answer your question.

17 Q. Why are you unable to answer my
18 question as to what, if anything --

19 A. What are you talking about?

20 Q. What, if any, conclusions in your
21 paper do you disagree with today?

22 MR. BLEAKLEY: Objection to the form
23 of the question.

24 A. There's a section called conclusions. May I
25 read that, then?

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Kassarjian - direct

1 Q. You can read the whole paper.

2 (Discussion off the record.)

3 Q. My question is not limited to the
4 section entitled conclusions.

5 A. That's what you asked me, which of the
6 conclusions do I disagree with so I'm reading the
7 conclusions.

8 Q. It's my recollection from reviewing
9 the paper that there were conclusions contained in
10 your paper that were not just included in the
11 "Conclusion" section of the paper.

12 MR. BLEAKLEY: Is that a question?

13 MR. EDELL: No. That's a statement
14 and I'm asking him for his --

15 MR. BLEAKLEY: What question do you
16 want him to answer?

17 MR. EDELL: I thought it was clear,
18 Mr. Bleakley.

19 MR. BLEAKLEY: It's not clear to me.

20 MR. FARRISH: I object to the form of
21 the statement in the sense that it forms the basis
22 for any question that you are asking him.

23 MR. BLEAKLEY: What do you want Dr.
24 Kassarjian to do now?

25 MR. EDELL: I would like Dr.

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Kassarjian - direct

1 Kassarjian to tell me what, if any, conclusions in
2 his paper marked as Kassarjian 1 for
3 identification he presently disagrees with today.

4 MR. BLEAKLEY: He answered that
5 question. He said he can't. He told you if you
6 want him to, he will read the section entitled
7 conclusions and see whether there's anything in
8 there that he disagrees with. Do you want him to
9 do that or not?

10 MR. EDELL: I told him that I would
11 like for him to review the entire paper. If he
12 doesn't want to do that, I'll read the entire
13 paper to him.

14 MR. BLEAKLEY: You do whatever you
15 want. It's your deposition. You have to make
16 sure the witness understands what you want him to
17 do.

18 MR. EDELL: I thought I was being
19 pretty clear on it.

20 MR. BLEAKLEY: The only person in this
21 person to whom it's clear is you.

22 MR. EDELL: I think it will be clear
23 to the jury, Mr. Bleakley.

24 MR. BLEAKLEY: Proceed.

25 A. I don't have the vaguest idea what I'm

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Kassarjian - direct

1 supposed to do now.

2 Q. I would like for you, Dr. Kassarjian,
3 to read the paper that you wrote and you say made
4 you famous which we marked as Kassarjian 1 and
5 tell us which, if any, of the conclusions
6 contained in that paper you presently disagree
7 with.

8 MR. BLEAKLEY: Object to the form of
9 the question.

10 A. I don't know what you are defining as
11 conclusions. If you will tell me what conclusions
12 and which of the statements in this article are
13 conclusions, I will tell you one by one whether I
14 agree with them or not. This paper has something
15 like, I just figured out, 6,000 words in it. I
16 don't know what a conclusion means from your point
17 of view and, therefore, I don't know what a
18 conclusion is.

19 Q. I was trying to limit your review of
20 the paper to some extent. Maybe by trying to
21 facilitate, I've presented problems. Then I would
22 like for you to review Kassarjian Exhibit 1, the
23 paper that you told us made you famous, and tell
24 us what, if any, statements or conclusions and/or
25 conclusions contained in that paper you presently

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Kassarjian - direct

1 disagree with.

2 MR. BLEAKLEY: Objection to the form
3 of the question.

4 A. I cannot discuss a conclusion because a
5 conclusion is in the eye of the beholder.
6 Therefore, I don't know whether what you call a
7 conclusion and I call a conclusion is the same
8 thing. If we want to talk about a clearly defined
9 grammatical entity like a sentence, I will go
10 through it sentence by sentence.

11 Here we go. Sentence one, "A reprint from
12 the California Management Review, copyright 1965
13 by The Regents of the University of California," I
14 don't disagree with that statement.

15 "Harold H. Kassarjian and Joel B. Cohen,"
16 authors, I don't disagree with that. Title:
17 "Cognitive Dissonance and Consumer Behavior," very
18 attractive title. "Reactions to the Surgeon
19 General's Report on Smoking and Health." That's
20 what the study, the substantive part of the study
21 is about.

22 "The field of human behavior and its various
23 subsets, especially consumer behavior, is fully as
24 complex and as confusing as the jargon with which
25 we attempt to describe it." I think anyone who has

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Kassarjian - direct

1 read any of this literature will agree with that
2 completely.

3 Q. Does that include yourself? I'm not
4 concerned with anyone else. I'm concerned with
5 you. Do you agree with that statement?

6 MR. BLEAKLEY: Objection to the form
7 of the question.

8 A. In my point of view, I don't see the field
9 as complex and as confusing but this was written
10 not to me. This was written for managers who read
11 the California Management Review in 1965 and from
12 their point of view, I felt that the field would
13 be perceived as complex and confusing. "From
14 among the bewildering array of proposed answers,
15 partial evidence and occasionally impartial
16 evidence, is it possible to assemble some sort of
17 meaningful, theoretical system."

18 MR. BLEAKLEY: I assume you don't want
19 him to say whether he agrees with the question.

20 MR. EDELL: He wanted to read every
21 sentence.

22 MR. BLEAKLEY: He didn't want to read
23 every sentence, Mr. Edell. You are the one that's
24 forcing us to go through this absurd exercise.
25 Dr. Kassarjian did not say, "I want to go through

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Kassarjian - direct

1 this article sentence by sentence." Let's make it
2 absolutely clear on the record that if we are
3 going to sit here for the next three hours and
4 have Dr. Kassarjian read this article sentence by
5 sentence, it is because you are asking him to do
6 it and for no other reason.

7 MR. EDELL: I'm not asking him to read
8 aloud every sentence. Mr. Bleakley, you and the
9 witness are playing games. All I wanted to do was
10 find out whether or not there's anything in that
11 paper that he disagrees with presently. It's very
12 simple.

13 MR. BLEAKLEY: No, it isn't very
14 simple. It's an absurd question.

15 MR. EDELL: Let me finish, Bleakley.

16 MR. BLEAKLEY: Bleakley?

17 MR. EDELL: Bleakley, Blakeley,
18 whatever you call yourself.

19 MR. BLEAKLEY: Who's playing games?

20 MR. EDELL: I would like to finish my
21 statement before you interrupt me.

22 MR. BLEAKLEY: What is this Blakely,
23 Bleakley, whatever you call yourself? That's not
24 game playing?

25 MR. EDELL: No.

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1 MR. BLEAKLEY: Cut it out.

2 MR. EDELL: I would much prefer to cut
3 this out. I asked what I thought to be a very
4 simple question. I heard that question asked by
5 not only myself but other people in many other
6 depositions and it's a very simple question. I
7 thought that the witness would be capable of
8 responding to that question without reading into
9 the record every single sentence, every single
10 word on that document and tell me whether or not
11 he disagrees or agrees with that presently today.
12 I don't want to know whether he agrees with it.
13 All I want to know is whether he disagrees with
14 it. There's no necessity for him to read aloud
15 into the record every sentence. When he gets to a
16 sentence that he disagrees with, please tell me.
17 A. You are asking me now to find out if there's
18 any sentences I disagree with. Before it was
19 conclusions. Am I right on that?

20 Q. Conclusions and statements and you
21 said that wasn't clear.

22 A. The way I understand your question, if I
23 say, is that what you want me to do is say no, I
24 don't disagree with this or yes, I disagree with
25 something and then you want to discuss that

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Kassarjian - direct

1 sentence in great detail and see if you can pick
2 holes in it and I don't know what sentence it is
3 that you want to pick holes at so I can't give you
4 the answer.

5 Q. I'm not trying to pick holes in
6 anything, sir.

7 A. You are just sitting there looking cute.

8 Q. I'm sitting here bewildered that you
9 can't tell me what you disagree with in a paper
10 that you wrote.

11 MR. BLEAKLEY: Is that a question?

12 MR. EDELL: It was a response to a
13 statement by the witness, Mr. Bleakley.

14 MR. BLEAKLEY: Let's cut out the
15 colloquy and get back to questions and answers.

16 MR. EDELL: I would prefer to do that
17 and get an answer from the witness.

18 MR. BLEAKLEY: Put your question to
19 the witness.

20 Q. Dr. Kassarjian, please tell us any
21 statements or conclusions by you contained in
22 Kassarjian Exhibit 1, the paper that you said made
23 you famous on cognitive dissonance, with which you
24 disagree today.

25 MR. BLEAKLEY: I object to the form of

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Kassarjian - direct

1 the question.

2 A. 25 years ago when this article was written,
3 I agreed with everything in it. In those 25
4 years, there was an enormous explosion of
5 information and knowledge in a whole variety of
6 fields. I don't know, I've not looked at this
7 article in the kind of careful analysis that you
8 want since I copy edited this paper in 1965. I
9 don't know if there's a sentence or a statement or
10 a phrase in this paper somewhere that today
11 because of new information I would agree or not
12 agree with.

13 If I will ask me which phrase you are
14 talking about, then I can answer you whether I
15 agree with that phrase today or not. I cannot go
16 through 6,000 words and decide and think about all
17 6,000 words and all the hundreds of thousands,
18 tens of thousands of studies in the field to see
19 if that word or phrase makes sense today. That's
20 an inordinate task.

21 If you would like me to take this
22 home, spend several days on it, go through it line
23 by line and think about the literature, I shall be
24 very pleased to write you a report at my regular
25 rates on exactly what may be different today than

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Kassarjian - direct

1 it was 25 years ago.

2 Q. Without performing that thorough
3 analysis over a period of days, you can't tell me
4 what statements or conclusions you disagree with
5 in that paper?

6 MR. BLEAKLEY: Objection to the form
7 of the question.

8 Q. Is that correct?

9 A. I can't remember any particular statement I
10 agree with or any particular statement I disagree
11 with. This paper was written 25 years ago.

12 Q. I'll ask you to read it and to tell me
13 as you sit here today what statements or
14 conclusions you disagree with.

15 MR. BLEAKLEY: Object to the form of
16 the question. I want to make it absolutely clear
17 on the record that I object to this entire
18 process. It's absurd. It's a waste of all of our
19 time. Dr. Kassarjian made a proposal which I
20 think is an entirely reasonable one. To suggest
21 that he should sit here in this room with a bunch
22 of lawyers and read an article that he wrote 25
23 years ago and try to give you a full and complete
24 statement of what he agrees with and what he
25 disagrees with while sitting here in this

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Kassarjian - direct

1 deposition room today is a waste of all of our
2 time and I object to it and I want to make it
3 absolutely clear that when this deposition
4 concludes at the end of this day, you will not
5 pick it up and start again if we wasted six hours
6 going through this exercise.

7 Why don't you accept the professor's
8 invitation and have him take the thing home and
9 read it. If you want, you can take his deposition
10 at another time and ask him about that article.
11 What do you want to do?

12 MR. EDELL: I'm certainly not entering
13 into any colloquy with you. I have a pending
14 question. The witness is reviewing the paper.

15 MR. BLEAKLEY: Let's take a break and
16 we'll let Dr. Kassarjian read the entire paper and
17 we'll come back and see what happens next.

18 MR. EDELL: I have no objection to the
19 witness reading the paper. Certainly I would
20 prefer for him not to discuss the paper with
21 counsel. There's a pending question and he do so
22 outside the presence of lawyers in an office where
23 he doesn't have the tension of a deposition so
24 that he can clearly review the document and
25 formulate his response.

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Kassarjian - direct

1 MR. BLEAKLEY: Mr. Edell, you don't
2 need to lecture me about talking with a witness
3 while there's a question pending. I understand
4 what's right and what's wrong. Stop making these
5 silly speeches on the record that nobody except
6 you and we are ever going to have an opportunity
7 to see. I suggested that we let Dr. Kassarjian
8 read the paper off the record while we are not all
9 sitting here staring at him. That's all I'm
10 suggesting. It is my intention to get up and
11 leave the room while he does it and I don't need
12 you lecturing me on what's proper and improper
13 about dealing with a witness.

14 MR. SILFEN: It's my understanding
15 that when he comes back, you'll repeat the
16 question for him to open-ended identify for you
17 the question which is you disagree with a
18 particular sentence and give you an analysis of
19 that sentence. Is that going to be the question
20 when he returns?

21 MR. EDELL: There must be different
22 rules for counsel from Arnold & Porter than there
23 is for anybody else.

24 MR. SILFEN: I want to know because
25 if --

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Kassarjian - direct

1 MR. EDELL: If there's an objection to
2 the form of the question, it's on the record. We
3 don't need your speeches, Mr. Silfen. We don't
4 need Mr. Bleakley's speeches.

5 MR. BLEAKLEY: Don't we need yours?

6 MR. EDELL: I'm not making any
7 speeches.

8 MR. BLEAKLEY: Is that right?

9 MR. EDELL: That's right, Mr.
10 Bleakley. That is absolutely right.

11 MR. BLEAKLEY: Let's take a break and
12 Dr. Kassarjian will read the article and when he
13 comes back, we'll see what happens next.

14 (Short break.)

15 Q. We are back, Dr. Kassarjian.

16 MR. BLEAKLEY: Is there a question
17 pending?

18 MR. EDELL: Yes, there is.

19 MR. BLEAKLEY: Do you have the
20 question in mind?

21 THE WITNESS: I would like it
22 repeated.

23 MR. EDELL: Madam Court Reporter.

24 (Question read.)

25 MR. BLEAKLEY: Object to the form of

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Kassarjian - direct

1 the question

2 A. Shall I go through this column by column,
3 page by page?

4 Q. What would be convenient for you, sir.

5 A. On page 55, first column, which I didn't
6 notice but someone pointed out, my name was
7 spelled wrong. I will spell it correctly.
8 Unfortunately that is an indication of how good I
9 am in proofreading or in reviewing an article how
10 often it is that one can miss something where I
11 did not even notice for 25 years that my name had
12 been spelled wrong. Who knows what other
13 conclusions there are in this paper that I'm going
14 to miss. Column two, page 55 --

15 Q. Who pointed that out to you, sir?

16 A. Just a moment ago. Someone in this room.
17 I'm not sure, someone to my right.

18 Q. One of the lawyers for the defendants?

19 A. I believe it was Mr. Bleakley.

20 MR. BLEAKLEY: Or Blakeley, whatever
21 he calls himself.

22 Q. The same person who said he wouldn't
23 discuss the paper with you.

24 A. That was done in this room, sir. When I was
25 reading this paper, I was sitting in a telephone

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Kassarjian - direct

1 booth. It was getting rather hot, with the full
2 realization that these proceedings are costing
3 society about \$2,000 an hour and so that's an
4 enormous amount of pressure on me to read this as
5 quickly as possible.

6 Q. I don't want you to read it as quickly
7 as possible. I want you to thoroughly read it so
8 we have a full appreciation of whatever you
9 consider to be statements or conclusions that you
10 disagree with in that paper that you wrote
11 regarding cognitive dissonance and consumer
12 behavior which we marked as Kassarjian Exhibit 1.

13 A. Page 55, column two, I make the statement,
14 "Why is that it that an advertiser has greater
15 difficulty in reaching and convincing people who
16 are not using his product than people who are
17 already his customers." I would make two changes
18 in that. I no longer am sure that an advertiser
19 has greater difficulty in reaching and convincing
20 people who are not using his product than those
21 who are. Secondly, I would take out the sexism in
22 the product of just saying his and use his or her.

23 Page 56, column two, about halfway
24 down, there is the statement, "This feeling of
25 inconsistency or dissonance is a state of

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Kassarjian - direct

1 discomfort, disequilibrium or tension that demands
2 reduction." I no longer believe that the tension
3 reduction is the driving force, that in fact
4 dissonance is a theory of motivation. What this
5 is saying is that dissonance is a motivating drive
6 and I no longer believe that to be true.

7 Q. What has changed during the period of
8 is it twenty years?

9 A. Thirty years since the theory.

10 Q. When was the paper authored? I don't
11 have it in front of me.

12 A. This paper was authored in '64 but this
13 paper is nothing more than an explication of
14 Festinger's theory for managers and so the
15 Festinger theory was 1957, I believe, and this
16 paper was, Festinger's theory is 1957 and this
17 paper was published in 1965 which means the study
18 was done in '64. This study was probably done in
19 April, in the spring of '64. The paper was
20 probably written that summer, that is, the summer
21 of '64.

22 Q. What caused you to change your belief
23 in that regard?

24 A. I just no longer, with the new evidence
25 that's in, the fact that the studies that have

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Kassarjian - direct

1 been conducted on dissonance have been quite
2 controversial on this point, I just no longer
3 believe that dissonance, that tension reduction is
4 what drives man. I believe dissonance causes
5 tension. The issue is whether we go through life
6 merely trying to reduce tension or do we sometimes
7 go through life trying to increase tension.
8 Otherwise, there will be no way to explain why a
9 person goes on a roller coaster. That increases
10 tension greatly and one need not do that. You can
11 save your dollar and not go on a roller coaster
12 and yet an awful lot of people do.

13 Q. Are you familiar with the current
14 literature on cognitive dissonance?

15 A. I'm not that familiar with it but I don't
16 think there's that much on it. Not in the
17 consumer behavior literature.

18 Q. In the psychological literature?

19 A. If I've run across it in my routine course
20 of duties, fine, but I don't make a point of
21 keeping up with that literature.

22 Q. Why is that?

23 A. Why?

24 Q. Yes, why.

25 A. I can't keep up with everything.

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Kassarjian - direct

1 Q. Go ahead.

2 A. Page 56, column two is the tension
3 reduction. Page 56 column one, claims by
4 Festinger. There are in these papers a series of
5 bullets, that is, blackened triangles, which in an
6 italicized or a bold type, a darker type, these
7 are claims made by Festinger. These are claims
8 made by the theory. After each of these bullets,
9 that is, each of the Festinger claims, there is a
10 paragraph of normal type that attempts to describe
11 what the Festinger theory means, avoiding the
12 psychological jargon and talking directly to
13 managers using the examples. I would not use the
14 same examples today.

15 Q. Why is that?

16 A. For example, on page 56, column two, I say,
17 "Advertising which employs the bandwagon approach
18 may also be successful because it possibly enables
19 the individual to submerge his actions in mass
20 behavior." I think that was a poor example to try
21 to show the elimination of responsibility. What I
22 was trying to say is that one way of reducing
23 dissonance is to eliminate personal responsibility
24 for it and I was trying to come up or Joel and I
25 were trying to come up with examples and I think

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Kassarjian - direct

1 that was a poor example of that.

2 Q. What example would you use today?

3 A. It wasn't by my doing. I was forced to do
4 it by economic concerns, by my boss, by authority
5 figures or something. I was forced to do
6 something. It was not my responsibility. I just
7 don't think the bandwagon approach to advertising
8 is an example of denying responsibility. It's an
9 example. That's not a conclusion. It's merely an
10 example of what Festinger meant and I don't think
11 it's --

12 Q. What would you think today is an
13 appropriate example?

14 A. My boss made me do it.

15 Q. Page 57, column one, I don't know what
16 the heck that was. I have a statement about
17 one-third of the way down, "Advertisers have long
18 known that an audience will seek out information
19 that is consonant with the views that the
20 individuals themselves hold." I don't know if
21 that's true any more. I don't know if it was true
22 then. I don't know if I can support that
23 statement. "Advertisers have long known that an
24 audience will seek out information that is
25 consonant with the views the individuals

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Kassarjian - direct

1 themselves hold." I think that advertisers do
2 this but I don't know -- see, what I'm saying is
3 that advertisers have long known. I don't know if
4 advertisers have long known and that's what I'm
5 reacting to. I don't know why I said that. I
6 have no way of knowing what advertisers have long
7 known. Maybe Cohen knew what they knew.

8 Then somewhere I say something about
9 primary audience for advertising. I couldn't
10 write on these sheets and I had trouble keeping
11 track. Here, later on that same paragraph, I say
12 "Undoubtedly, the primary audience for advertising
13 is comprised of the advertiser's present
14 customers." I don't know that for a fact any
15 more. I don't know if I knew it for a fact then.
16 Perhaps that sentence was written by -- I don't
17 know who wrote it and maybe Joel knew for a fact.

18 Page 58, the bottom of page 58, column
19 one, I have a listing of four hypotheses. The way
20 this is written, these hypotheses sound like they
21 may be conclusions or statements of fact and I
22 would rewrite this in some way to point out that
23 these were hypotheses and thought statements of
24 fact.

25 Q. Did you do anything to try to

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Kassarjian - direct

1 ascertain whether or not these hypotheses were
2 correct or incorrect?

3 MR. BLEAKLEY: Objection to the form
4 of the question.

5 A. Yes; we conducted a study. I'm going to get
6 to that in a moment. That's page 58, column two.
7 In writing this paper up, I think we have left the
8 impression that this is a high quality scientific
9 study.

10 In fact, as is clear in the paper but
11 I'm not sure that it has been perceived that
12 clearly, this was a classroom project. Its
13 purpose was to teach students how to draw a
14 sample, how to design a questionnaire, how to do
15 interviewing and the whole marketing research
16 process. It was a marketing research classroom
17 project. We say in it the study was done in
18 conjunction with a class marketing research
19 project and I would have emphasized that a little
20 bit more because it gives the impression of higher
21 quality.

22 For example, we did not do a random
23 sample of American people.- Students could not do
24 that. What we did was to teach them how one would
25 draw a sample of the United States but instead of

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Kassarjian - direct

1 that, we took a very tiny beach community, Santa
2 Monica, had them draw a sample in Santa Monica as
3 if that was the entire United States and it was
4 done by students. These are not professionals.
5 And I'm not all that sure of the accuracy of the
6 data any more when you are using students.

7 I've learned since then that students
8 are not the most reliable of folk on this kind of
9 thing so I think I would have written this with a
10 lot more disclaimers in it. In my old age, I'm
11 not so sure of reality any more and I would have
12 put many more disclaimers in that this is a class
13 project, it is simply an example of what
14 dissonance can do.

15 So that's that. Santa Monica is not by any
16 means representative of the United States or of
17 the American people. It is a beach community and
18 in fact it's a beach community that's not really
19 representative of anything. For example, it's the
20 only community with rent control and you can
21 imagine what impact that has on housing.

22 Page 59, column one, last sentence,
23 "Apparently, a majority of all consumers are too
24 heavily committed to their sucking behavior to be
25 influenced by persuasive communication no matter

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Kassarjian - direct

1 how strongly worded or impressively documented."

2 Now 25 years later, I can sit in a corner

3 and lick my wounds with that dumb statement.

4 Because what has happened in this time is that

5 people by the tens of thousands, in fact people by

6 the millions, have stopped smoking. All consumers

7 are not too heavily committed to their smoking

8 behavior to be influenced by persuasive

9 communication no matter how strongly worded.

10 Communication, the times have changed. These

11 people have stopped smoking and I would not have

12 made such a strong statement.

13 Q. Do you have an opinion as to whether

14 or not these communications influence behavior?

15 MR. BLEAKLEY: Objection to the form

16 of the question.

17 A. There are many, many vectors or influences

18 that go into human behavior. Communication is a

19 small part of that but I just simply would not

20 have made that statement. This paper is not about

21 whether communication influences behavior. What

22 I'm trying to talk about is what statements I

23 would not be making today and that is a statement

24 I would not make today.

25 Q. What I'm saying is what is the basis

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Kassarjian - direct

1 for your not making that statement today?

2 A. I just think it sounds silly. It simply
3 sounds silly. It sounds as if people are so
4 heavily committed to smoking that they will not
5 stop and we know that millions upon millions of
6 people have stopped smoking so it's, it sounds
7 ridiculous 25 years later.

8 Q. You didn't have information with
9 regard to the number of people who had stopped
10 smoking in 1963 or '64 when you wrote it?

11 A. We had something. At the point we wrote it,
12 January 1964, I claimed the surgeon general's
13 report went out and there's a statement in here
14 that nine percent had quit since January of '64.

15 Q. Nine percent of how many people?

16 A. Let me read it. "Approximately 9 percent had
17 quit since January 1964" -- remember, this was
18 written about summertime of '64 -- "the date of
19 the release of the surgeon general's report this
20 coincides with reports that cigarette smoking in
21 California fell eight to ten percent during the
22 first quarter of 1964. As this paper is being
23 written, a few months later, the trend is
24 reversing. Footnote ten." The footnote says Wall
25 Street Journal, April 9, 1964.

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Kassarjian - direct

1 Q. Of what significance is the fact that
2 the trend was reversing?

3 MR. BLEAKLEY: Objection to the form
4 of the question.

5 A. Nothing. It was just a statement.

6 Q. It was of no significance?

7 MR. BLEAKLEY: Objection to the form
8 of the question.

9 A. What significance is it to what?

10 Q. You put it in your paper. I thought
11 that it may have had some significance in terms of
12 the study that you performed.

13 A. You asked me if at that time people had
14 stopped smoking so I said yes, nine percent had
15 stopped smoking and read you the paragraph where I
16 got the data from. The last sentence of the
17 paragraph said the Wall Street Journal said the
18 trend is being reversed and I just read it along
19 with everything else.

20 Q. I understand that. I said what, if
21 any, significance is the fact that the trend was
22 reversing.

23 MR. BLEAKLEY: Object to the form of
24 the question.

25 Q. If you tell me it has no significance,

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Kassarjian - direct

1 you just put it in there, I can understand that.
2 I want to know what, if any, significance that
3 has.

4 MR. BLEAKLEY: Objection to the form
5 of the question.

6 A. I really don't remember why I put that
7 statement in, if I put it in. I don't remember
8 why I put that statement in. Let me be precise.
9 I don't remember why one of us put that sentence
10 in here. I don't remember. In fact, it's amazing
11 that I can remember anything from 25 years ago.

12 Q. Before I forget, sir, when was the
13 last time that you saw the article that was marked
14 as Kassarjian Exhibit 1 before I asked you to
15 review that article today?

16 A. I've probably seen this paper twenty times.
17 People have asked for copies and I'd reach in my
18 file, hand it to them. There have been times when
19 I glanced at it. I remember in 1965 someone on
20 this case either asked me or I gave him a copy of
21 it. I noticed it again yesterday, glanced at it
22 yesterday when I saw a copy that was all marked up
23 like your copy that one of the other attorneys
24 had. So I've seen it. I have not read it
25 carefully since I proofread the draft in 1964 and

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Kassarjian - direct

1 I was probably as sloppy then not catching my own
2 name spelled wrong as I was today in reading it so
3 the next time I really read it carefully was in
4 the phone booth half an hour ago.

5 Q. Did you discuss the article with the
6 lawyers in preparation for this deposition?

7 A. Yes, we talked about it. They mentioned
8 that you would probably ask questions about it and
9 that's about it.

10 Q. Did you discuss the substance of the
11 paper and some of the conclusions and statements
12 in the paper?

13 A. Not to any great, not to any significant
14 degree.

15 Q. Did you discuss any of the statements
16 or conclusions in the paper with the lawyers in
17 this case in preparation for this deposition?

18 A. Here we go as to what a conclusion is. We
19 had discussed some portions of this paper for a
20 few minutes yesterday, yes.

21 Q. When you say a few minutes, five
22 minutes? Is that what you are saying?

23 A. Five, ten minutes.

24 Q. Would you please continue.

25 A. 59, column two is the next note I have,

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Kassarjian - direct

1 where I said right in the middle of the column,
2 "However, when advertisers set more modest goals
3 and give reasons which tend to reduce dissonance
4 in a less threatening direction, their success
5 should be far greater." I'm making a prediction
6 that if they would be more modest in their claims,
7 their success would be far greater. I would not
8 make this statement today. This statement had
9 nothing to do with advertising. It had nothing to
10 do with advertisers or advice to advertisers. It
11 was attempting to describe dissonance and presents
12 the study of a little classroom study, and to make
13 conclusions on what advertisers should or should
14 not do goes far beyond a claim I would make
15 today. That's the brashness of youth.

16 Page 60, column one, 40 percent of the
17 way down there's a sentence is that says, "The
18 results indicated that there has been very little
19 switching, again supporting the thesis that
20 smoking behavior is a very resistant element, and
21 if the cancer linkage does create any change,
22 generally it is not in the area of behavioral
23 change." What a wonderful example of error. What
24 we have seen in the last 25 years is behavioral
25 change on a massive degree. I have no idea of

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Kassarjian - direct

1 numbers but I-sincerely believe the number of
2 people who have stopped are tens of millions of
3 people and I claim here that if there's going to
4 be changes, it's generally not going to be in the
5 direction of behavioral change. No.

6 Page 60, starting on this page and
7 throughout other parts of it, I talk about, I use
8 the term believability. I talk about the results
9 of the believability question. We had asked the
10 question on do you believe the surgeon general's
11 report and then those people who said yes I said
12 are believers or whatever we called them. What
13 did we call them. Whatever. I would not use that
14 word believability or belief today. I would use
15 claimed belief because I don't know what they
16 really believed. All I know is their answer to
17 the question do you believe and there's reason to
18 suspect in this data itself that smokers when they
19 said they believed something really didn't believe
20 it at all so every time the word believability
21 comes up, today I would put in claimed
22 believability. That's all I'm saying.

23 Q. What has led you to the conclusion
24 that you should have or you would today if you
25 were writing the paper change the use of the terms

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Kassarjian - direct

1 believability and belief to claimed belief?

2 A. Because this paper is giving the impression
3 that smokers do not really believe the surgeon
4 general's report. No. That smokers do not really
5 believe the health risk is so great. We asked
6 them do you believe the linkage is proven and as
7 you'll see on Table VI -- is that the right
8 table -- Table IV, smokers, non-smokers and light
9 smokers believe the health dangers more than
10 smokers. That is, that's what they claimed and
11 yet when we asked these people not what do you
12 believe or we asked them projected questions as
13 sometimes used to get, when you are asking
14 threatening questions like how many bottles of
15 whiskey do you drink per week, you can't always,
16 ask the question directly because you don't get it
17 or I remember once in doing a study for toilets
18 for a Cornell School of Architecture, they wanted
19 to know how big the toilet pipes should be, we
20 couldn't ask them how many condoms per day do you
21 throw in a toilet bowl. We had to ask it some
22 other way.

23 We did the same thing here. We asked
24 them not what do you believe but what do you think
25 of teenagers who smoke and when we asked them

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Kassarjian - direct

1 these kind of questions, we got different
2 response. They said teenagers who smoke, many of
3 them are foolish, crazy, silly, but not me, and so
4 I today believe, I think, that they really did
5 believe these reports even though they said no.
6 They said no, they don't believe it in order to
7 appear consistent to a strange interviewer.

8 Q. How do you know when a respondent
9 gives you an answer as to whether or not it is a
10 claimed belief or a belief?

11 A. We don't know that.

12 Q. What is so peculiar about this study
13 that you performed that led you to the conclusion
14 that it was a claimed belief versus a belief?

15 MR. BLEAKLEY: Objection to the form
16 of the question.

17 A. I just said that I would use that word. I'm
18 not making any statements as to whether it was
19 claimed or not. I told you I would change it. I
20 would change it because I think there's enough
21 evidence in the data itself that what they said is
22 not really what they believed. I don't know what
23 they believed. I have no way of X-raying them to
24 get at that. I only have two or three ways of
25 questioning them. When I question them in these

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Kassarjian - direct

1 two ways and get different results, I've got to
2 think that there's something fishy and that's all
3 I'm saying. That was my believability.

4 Page 60, column two, the last sentence says,
5 "If the comparison is not unreasonable for many
6 smokers, the smoking behavior was the most
7 resistant element while cognitions about health
8 were modified more easily." The facts have proven
9 me wrong. I don't know about the cognitions about
10 health being modified more easily but surely
11 smoking behavior was not as resistant an element
12 as I thought it was because the evidence shows
13 people have stopped. People have made the
14 decision, have looked at the information and by
15 the millions have made the decision to not smoke.
16 Others have made the decision to take the chance,
17 I guess.

18 Q. How do you know that people have
19 looked at the information, sir?

20 A. All I know for a fact is that millions of
21 people have stopped.

22 Q. How do you know what the cause of
23 their stopping smoking was?

24 A. As a consumer behavior person, I have based
25 on many years of experience on what makes

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Kassarjian - direct

1 consumers behave as they do in the marketplace, I
2 can draw on that information, generalize in that
3 information and draw hypotheses or conclusions
4 about why they stopped smoking.

5 Q. I want your conclusions as to why they
6 stopped smoking.

7 A. I think for the very same reasons they
8 started smoking.

9 Q. What are they, sir?

10 A. Primarily it's the times, the era, the
11 pressures on the individuals from a variety of
12 sources. This is what the Germans would call
13 zeitgeist. What it means is that the times, the
14 pressures on the individual.

15 What causes people to smoke are group
16 pressures, pressures from other people, primarily
17 the social type of pressures. What causes people
18 to stop smoking are primarily group pressures,
19 pressures from other people. If any of you people
20 in this room smoke, you know how much guff you
21 must put up with to smoke a cigarette. If you
22 don't smoke, you know how much guff you've dished
23 out to other people who smoke around you and it's
24 that kind of pressure that is terribly important.
25 That's a very important vector in starting to

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Kassarjian - direct

1 smoking and in stopping to smoke. I think some of
2 the communication materials, I think advertising
3 that points out the health dangers and so on are
4 another very small vector that goes into people
5 stopping smoking. I think the cultural times, the
6 climate, the variety of vectors that impinge on an
7 individual are what is causing people to stop
8 smoking.

9 Q. What causes changes in the cultural
10 norms of a given time?

11 MR. BLEAKLEY: Objection to the form
12 of the question.

13 A. Norms, cultures change. They change. No
14 one causes it. Styles change. It isn't that
15 there is some nasty designer out there that's
16 going to decide all women should now shorten their
17 skirt six inches. If so, that man would be truly
18 a millionaire but styles change and designer
19 clothes may have a very small impact but they
20 bought it. All you have to do is look at the
21 fashion magazines in about April and what we are
22 supposed to be wearing the next winter to see how
23 often they have blown it so designers don't make
24 fashion. Designers don't make fads. Product
25 manufacturers and advertisers don't cause change.

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2617006710

Kassarjian - direct

1 The designers, the advertisers, the
2 newspapers, the motion pictures all reflect the
3 change. They add a little bit to it but mostly
4 they reflect it and so what we are dealing with
5 here is that we don't know what causes anything to
6 happen. It just happens. And a fashion designer
7 goes along with it.

8 Q. Do you have an opinion as to whether
9 or not cigarette advertising contributed to the
10 social acceptability of smoking?

11 MR. BLEAKLEY: Objection to the form
12 of the question.

13 Q. At any point in time.

14 A. I think it reflected that smoking became
15 more acceptable for women in the twenties, say..
16 It was reflecting that. I think giving
17 advertising credit for causing it is going much,
18 much too far out on a limb.

19 Q. If I used the word caused, I
20 misspoke. My question is do you have an opinion
21 as to whether or not cigarette advertising
22 contributed to the social acceptability of
23 cigarette smoking.

24 A. It didn't hurt it. If it contributed
25 anything, it's very, very little. Times were

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Kassarjian - direct

1 changing. The movies were changing. People were
2 smoking in the movies. When Talullah Bankhead
3 smokes a cigarette, I don't know if that causes
4 times to change but it reflected it. When a
5 cigarette billboard says, "Blow some my way," with
6 a sexy woman looks at a very handsome man who is
7 smoking, I don't want to claim that caused
8 change. I'm saying it's reflecting the change and
9 it may have had a teeny little vector that may be
10 there but surely it's not a significant factor but
11 it is significant in that it reflects it.

12 Q. Did communications with respect to
13 cigarette smoking and health contribute to the
14 change in the social acceptability of cigarette
15 smoking?

16 MR. BLEAKLEY: Objection to the form
17 of the question.

18 A. Isn't that the answer I just gave? I
19 thought I said that advertising reflects the
20 changes that are occurring rather than causes it.

21 Q. I didn't ask the question with regard
22 to advertising.

23 MR. EDELL: Could you read back the
24 question. I could be wrong.

25 A. If you mean communications in general like

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Kassarjian - direct

1 motion pictures and novels?

2 MR. EDELL: Can you read back the
3 question, please.

4 (Question read.)

5 MR. BLEAKLEY: Object to the form of
6 the question.

7 THE WITNESS: Could you read that
8 again, please.

9 (Question read.)

10 A. The word communication is so broad, I imply
11 that you meant advertising. Communication
12 involves the mass media, motion pictures, novels,
13 newspapers, magazines, television, radio.
14 Communications involves face-to-face
15 communication, conversations, discussions,
16 lectures and so on. Certainly face-to-face
17 communication between individuals might have had
18 some impact on it. Mass communication might have
19 had some minimal impact but if we mean mass
20 communication, then I just strongly deeply believe
21 that communications reflect the times but do not
22 create the times. The cultural milieu is not
23 created by a novel or a newspaper or a television
24 ad. Cultural milieu is there and then the mass
25 communications reflects that.

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Kassarjian - direct

1 Q. Articles concerning the health hazards
2 of cigarette smoking reflect the social
3 acceptability of cigarette smoking you mean?

4 MR. BLEAKLEY: Objection to the form
5 of the question.

6 A. Articles on the health hazards of cigarettes
7 are reflecting the fact that editors feel the
8 readers are interested in such articles, if that's
9 what you mean. If you mean planted articles or
10 paid advertisements, that's a different story but
11 if you mean there happens to be an article about
12 smoking and health in Good Housekeeping, that's
13 because an editor decided that would be an
14 interesting article to print and, in that forum,
15 reflects the times.

16 Q. You don't have an opinion as to
17 whether or not that type of communication would
18 have an effect on the social acceptability of
19 cigarette smoking?

20 MR. BLEAKLEY: Objection to the form
21 of the question.

22 A. It has an effect. It has a small effect
23 just like a bus driver saying throw out that
24 smelly cigar or a beautiful person for me, I used
25 to smoke cigars and when a very attractive person

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Kassarjian - direct

1 said yuk, you smell awful, surely that had an
2 effect. That has an effect. Articles have an
3 effect. The fact that I can't smoke inside, at
4 that time, had an effect. The fact that not one
5 person in this room is smoking, that has an
6 enormous effect. If any of you want a cigarette,
7 you are not going to light up. All of these
8 pressures, all of these vectors impinge on the
9 individual.

10 Q. How do you determine which one of
11 these elements that you say are part of this
12 vector contributes to the social acceptability of
13 cigarette smoking?

14 MR. BLEAKLEY: Objection to the form
15 of the question.

16 A. I'm saying it's the times that determine the
17 social acceptability or not acceptability of the
18 product. It's the zeitgeist. It's the era. That
19 is the important variable. How do I determine
20 what the influences in the times are, there are a
21 number of studies that would show the relative
22 influence of personality, the relative influence
23 of physiology, the relative influence of groups
24 and cultures and so on. But what you are looking
25 for is what's causing these changes to occur in

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Kassarjian - direct

1 behavior and I'm saying the cause of that change
2 is the times, the zeitgeist.

3 Q. What causes these changes in the
4 eras? What causes the zeitgeist?

5 MR. BLEAKLEY: Objection to the form
6 of the question.

7 A. Wouldn't it be wonderful if we knew that
8 next year men are going to start wearing wide ties
9 and we could start producing them now. They
10 change. Interests change and attitudes change.
11 They change. If we only knew what next year's fad
12 was going to be. If we only knew whether
13 hula-hoops were going to come in, we could put in
14 a couple them now. We could make millions. They
15 do change. Everything affects the change. It's
16 people talking to people, it's mass communications
17 it's articles, it's movies, it's books, it's
18 everything in the society has an impact and is
19 effected by that impact.

20 Q. I apologize if some of my questions
21 are naive.

22 A. That's okay.

23 Q. What changes people's beliefs?

24 MR. BLEAKLEY: Objection to the form
25 of the question.

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Kassarjian - direct

1 A. Beliefs about what?

2 Q. I'll make it easy, at least from my
3 perspective. The dangers of cigarette smoking.

4 MR. BLEAKLEY: Object to the form of
5 the question.

6 Q. Does zeitgeist play a role in this, in
7 the change in their beliefs with respect to the
8 hazards of cigarette smoking?

9 MR. BLEAKLEY: Objection to the form
10 of the question.

11 A. There are many, I'm calling them vectors. I
12 think you used the word element. That's fine.
13 There are many agents, vectors, that go into
14 belief change about I think you said health
15 dangers of cigarette smoking. Surely articles,
16 surely governmental statements, surely finding
17 out, knowing someone who died of lung cancer or
18 coronary heart disease or prostate cancer, who
19 knows what other cancers the stuff causes, that
20 helps. Surely the advertising for cigarettes that
21 constantly remind you how dreadful these products
22 are. That helps. Surely the warning that says if
23 you are going to smoke this product, it's going to
24 kill you dead, that helps. Surely the pressure,
25 social pressures that prevent smoking, that cause

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Kassarjian - direct

1 people not to smoke and yet none of us want to
2 admit that we are being pushed around by others so
3 we say to ourselves, it was an ugly coffin nail,
4 I'm going to stop, that helps. All of it helps.
5 All of it is the times and the times are all of
6 it. It's one, it's the zeitgeist.

7 Q. You mentioned all of those
8 communications which conveyed to people the fact
9 that cigarette smoking may be harmful. What about
10 communications which conveyed the opposite, that
11 cigarette smoking hadn't been proven to be
12 harmful? Does that have an effect on beliefs?

13 MR. BLEAKLEY: Objection to the form
14 of the question.

15 A. Those kind of ads are --

16 Q. I'm not talking about ads. Any kind
17 of communications, whether it be a press release
18 or an advertorial, is that what the term is, or
19 brand advertising, industry advertising, any form
20 of communication.

21 MR. BLEAKLEY: Object to the form of
22 the question.

23 A. You have to remember that an interpreter in
24 seeing a communication form quite naturally takes
25 that communications material and assumes its

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Kassarjian - direct

1 source.

2 Q. It depends upon the reliability of the
3 source?

4 MR. BLEAKLEY: Objection to the form
5 of the question.

6 A. It assumes the source so that, if I can give
7 you an example, if you are going down a street and
8 you see a big billboard that says drink milk,
9 there's a natural kind of thing, that the milk
10 trade association, who is telling me to drink
11 milk. We immediately want to imbue a source.
12 With that source, along with that source is a
13 feeling of validity of the source, so if we know
14 this is an ad or if we know this is a press
15 release or if we know this is a research study or
16 an article that's written by the tobacco industry,
17 the average consumer then will automatically
18 question the veracity of it. By doing that, it's
19 pointing out that the product is potentially
20 dangerous.

21 Let me give you an example. Not long ago
22 McDonald hamburger chain had a very difficult
23 problem so they started advertising that said
24 McDonald hamburgers are made of pure beef and not
25 worms. I don't know if you remember that incident

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Kassarjian - direct

1 but McDonald's sales had dropped 60 per cent in
2 the midwest as the rumor spread that the hamburger
3 was made out of worms instead of beef. So they
4 kept saying we pay for beef 69 cents a pound.
5 Worms cost \$6.49 a pound. Why would we use worms
6 is what their commercial said.

7 What was the effect of that ad? Sales
8 plummeted because people said why are they
9 telling us they are not using worms, they must be
10 using worms. And that ad was a disaster and in
11 fact it's a heavily studied ad because it was such
12 a disastrous decision.

13 You'll get the same kind of thing when
14 a cigarette company comes out and says there's no
15 evidence that prove it's bad or Carlton is less
16 irritating or whatever it is, has less tar. Every
17 ad that says Carlton has less tar can be
18 interpreted to mean we all have tar and that ain't
19 good for you, Carlton is a little better, switch
20 to us.

21 Q. Have you seen any surveys to ascertain
22 what consumers' impressions were with respect to
23 certain brands of cigarettes?

24 MR. BLEAKLEY: Objection to the form
25 of the question.

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Kassarjian - direct

1 A. I've seen no survey evidence at all. You
2 mean relative to this case? I read the Gallup
3 reports in the papers every once in a while.

4 Q. Did you see any marketing research
5 performed by any of the cigarette manufacturers to
6 see what impressions their ads left with consumers
7 of their products?

8 MR. BLEAKLEY: Objection to the form
9 of the question.

10 A. No, I have not.

11 Q. Have you conducted any studies of your
12 own to ascertain what impressions cigarette
13 advertising would make upon consumers?

14 A. Outside of a classroom project in 1964, I
15 have not.

16 Q. Have there been successful advertising
17 and public relations efforts to change people's
18 perceptions with respect to a product?

19 MR. BLEAKLEY: Objection to the form
20 of the question.

21 A. Have there been successful campaigns to
22 change people's attitudes toward an image of a
23 product or an image of a company?

24 Q. You gave us examples of what I guess
25 would be considered in the marketing field a very

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Kassarjian - direct

1 poor advertising and public relations campaign by
2 McDonald's.

3 A. Let's call it stupid.

4 Q. Have there ever been any intelligent
5 marketing and promotional plans which were
6 effective in communicating to the public the
7 correct perspective of the market's product?

8 MR. BLEAKLEY: Objection to the form
9 of the question.

10 A. I can't respond to correct perspective. I
11 can give you examples of image changes.

12 Q. Maybe that would be helpful.

13 A. A very famous one is DuPont. Between World
14 War I and World War II, DuPont Corporation, people
15 felt that wars are caused by warmongers and
16 industrialists that make a profit. That was
17 before World War I, between World War I and World
18 War II. The munitions manufacturers are the ones
19 that got us into war. That was DuPont. It was
20 the munitions and the gun powder monopoly,
21 DuPont. DuPont had an image of warmonger,
22 munitions-maker, bad.

23 After World War II, they set out to
24 change their image from munitions manufacturer and
25 warmongering to better things for better living

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Kassarjian - direct

1 through chemistry. They did a wonderful job so
2 today when I mention munitions manufacturer, few
3 people would think of DuPont.

4 Q. How did they do that?

5 A. In 1973, when we were worried about napalm
6 and the students strike, they struck against Dow
7 Chemical, which was a producer of napalm but
8 DuPont also produced napalm and they didn't strike
9 out against DuPont so there's an example of an
10 image change.

11 Q. How did DuPont do that?

12 A. I have no idea. I don't know what caused
13 it. Maybe we were tired of believing. The times
14 had changed. We no longer believed that wars are
15 caused by the DuPonts and the Rockefellers and the
16 terrible robber barons. That may have been part
17 of it. Undoubtedly I remember their phrase so
18 advertising might have had some part but I don't
19 believe an ad that says better things for better
20 living is what changes attitudes towards DuPont.
21 They changed. I don't know what they did.

22 Q. Do you know what other promotional or
23 public relations activities they participated in?

24 A. No, I do not.

25 Q. Do public relations activities

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2017006723

Kassarjian - direct

1 contribute to the consumers' perception of a
2 product?

3 MR. BLEAKLEY: Objection to the form
4 of the question.

5 A. It might have a small effect. It might just
6 have. Teaching might have a small effect. Wait a
7 minute, to perceptions of the product did you
8 say?

9 Q. Yes.

10 A. It has an effect, surely. It might have an
11 effect. There's some terrible mistakes that have
12 been made, too, by public relations firms.

13 Q. There are good public relations
14 programs and there are bad public relations
15 programs. There are some that work and some that
16 don't. Is that right?

17 MR. BLEAKLEY: Objection to the form
18 of the question.

19 MR. FARRISH: Object to the form of
20 the question.

21 A. I don't know if there are good ones or bad
22 ones. I don't know anything about public
23 relations.

24 Q. Do you know anything about the effects
25 of public relations?

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Kassarjian - direct

1 MR. BLEAKLEY: Objection to the form
2 of the question.

3 A. I'm not an expert on public relations or the
4 effects or the implied intent of public relations
5 people. It's not my field.

6 Q. You told us that the source of the
7 information would affect the consumers' processing
8 of that information in terms of formulating their
9 beliefs. Is that correct?

10 A. I said when consumers perceive information,
11 they attach to that perception the source of who
12 said so, who is telling me.

13 Q. Do you know what the relative
14 reliability of different figures in the area of
15 cigarette smoking and health were during the
16 fifties?

17 A. I don't know what relative reliability
18 means.

19 Q. Are you aware that people have
20 conducted studies to see what reliability people
21 place in different sources during different
22 periods of time?

23 MR. BLEAKLEY: Objection to the form
24 of the question.

25 A. I may be missing something. To me

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Kassarjian - direct

1 reliability means how consistently an individual
2 says something or how consistently a judge gives a
3 response to an answer.

4 Q. Maybe it was my inartful use of the
5 term reliability. Maybe I meant to use
6 credibility as opposed to reliability.

7 A. Oh, excuse me.

8 Q. No, excuse me. Are you aware of
9 studies over the years in which there was an
10 attempt to ascertain what the public's perception
11 was concerning different groups of people in terms
12 of their credibility on the issue of cigarette
13 smoking and health?

14 A. Credibility that they assume, how much they
15 believe the smoke and health claims, I guess, the
16 answer is simple, I have not seen any studies on
17 that topic. Independent of whatever you asked, I
18 have still not seen any studies of it.

19 Q. If a consumer read an article in which
20 an apparently independent physician stated that
21 the relationship between cigarette smoking and
22 disease had not been proven, do you have an
23 opinion as to how that information would be
24 processed concerning the beliefs of that
25 individual concerning cigarette smoking and

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Kassarjian - direct

1 health?

2 MR. BLEAKLEY: Objection to the form
3 of the question.

4 MR. FARRISH: Object to the form of
5 the question.

6 A. I have no way of knowing. I need to know
7 the information. That's not enough. Surely I
8 need to know the year. Surely I need to see the
9 message. Surely I need to see in what form it was
10 presented in and so on.

11 Q. Did you review any messages concerning
12 cigarette smoking and health for any years?

13 A. I mentioned I saw some half a dozen ads
14 through several years. If that's a message
15 concerning smoking and health, yes.

16 Q. Did you review any news articles?

17 A. No.

18 Q. Did you review any press releases?

19 A. You mean for these hearings because over the
20 last 25, 30 years of living, I do read the
21 newspaper. In reading the newspaper, I do see
22 ads, I do see articles and so on. You don't mean
23 the normal lay exposure to the mass media but you
24 mean for these hearings did I review any articles
25 or press releases about smoking. Am I right?

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Kassarjian - direct

1 Q. As an expert in consumer behavior in
2 terms of formulating your opinions in this case,
3 did you review or consider press releases with
4 regard to cigarette smoking and health?

5 A. I did not. I was not given nor did I see
6 any press releases about smoking and health.

7 Q. Did you see any marketing or public
8 relations plans by cigarette manufacturers or
9 their trade association concerning cigarette
10 smoking and health?

11 A. I did not.

12 Q. Did you ask to see any of that
13 information?

14 A. I did not.

15 Q. You didn't think it was necessary to
16 review that information in formulating your
17 opinions in this matter?

18 MR. BLEAKLEY: Objection to the form
19 of the question.

20 A. I'm really not terribly interested in what
21 some marketing strategist thought or said. My
22 expertise and interest is in the field of consumer
23 behavior and not what marketing strategists
24 believe or write.

25 Q. How does an expert in the field of

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Kassarjian - direct

1 consumer behavior measure knowledge on the part of
2 a consumer concerning the health hazards
3 associated with the use of that consumer's use of
4 the product?

5 MR. BLEAKLEY: Objection to the form
6 of the question.

7 A. You are asking me how do we measure
8 knowledge or awareness or whatever that a consumer
9 has. Is that it?

10 Q. Knowledge, sir, not awareness.

11 A. How do we measure knowledge a consumer has.
12 We can develop little tests, multiple choice tests
13 or open-ended type tests that you see in
14 classrooms. We can do surveys. We can take
15 samples of people and experiments and see in
16 laboratory experiments and hope to hell that we
17 can generalize from a few people in an experiment
18 to people in general. We can do many tests on
19 measuring what knowledge the consumer has. There
20 are many tools, many instruments that can be used.

21 Q. Have you ever devised a test to
22 ascertain what knowledge consumers had concerning
23 any health hazards associated with the use of
24 cigarettes?

25 A. Other than the classroom project in 1964,

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1 no.

2 Q. Sir, what do you attribute the
3 differences in response to questions concerning
4 the beliefs of cigarette smokers versus
5 non-cigarette smokers to questions posed in your
6 paper regarding the relationship between cigarette
7 smoking and lung cancer?

8 MR. BLEAKLEY: Objection to the form
9 of the question.

10 A. I didn't understand what you said. I'm very
11 sorry.

12 Q. I'll try to make it make sense. Are
13 there differences in the responses between
14 cigarette smokers and non-smokers concerning their
15 beliefs with respect to the relationship between
16 cigarette smoking and lung cancer as reflected in
17 your paper?

18 MR. BLEAKLEY: Objection to the form
19 of the question.

20 A. Yes. We did get some differences on what
21 smokers, cigarette smokers and non-smokers said
22 about illness and health.

23 Q. What did you attribute those
24 differences to, sir?

25 A. At that time we attributed it to -- it's

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Kassarjian - direct

1 backwards. What I wanted to say was at that time
2 we attributed it to cognitive dissonance but in
3 fact that's backwards. If memory serves me
4 correctly, we did the study as a classroom project
5 so we could write an article on cognitive
6 dissonance and wrote the article on cognitive
7 dissonance and used the study as an example so
8 cause and effect gets all confused. The study was
9 done. Now, we said why are there are differences,
10 maybe that's dissonance, let's write an article on
11 dissonance. Let's become famous.

12 Q. Today you don't believe that the
13 differences in the responses to the question as to
14 whether cigarette smoking is a cause of lung
15 cancer is not due to cognitive dissonance. Is
16 that right, sir?

17 MR. BLEAKLEY: Objection to the form
18 of the question.

19 A. I don't believe that if there are
20 differences today that they are anything like the
21 differences we had. I think the differences, if
22 there are some today, are very minor.

23 Q. I'm talking about the differences in
24 your paper, sir.

25 MR. BLEAKLEY: Object to the form of

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Kassarjian - direct

1 the question."

2 Q. Is it your opinion, sir, that the
3 differences in the responses that you got in your
4 paper in 1964 were attributable to cognitive
5 dissonance?

6 MR. BLEAKLEY: Objection to the form
7 of the question.

8 A. I don't know what it's attributable to.
9 Cognitive dissonance is one possible hypothesis
10 that we were able to use at the time and used it.
11 I don't know if I really believed it was all
12 cognitive dissonance then. I don't know if I
13 believe it today. It's one possible solution.

14 In the conclusion of the paper I say
15 just that or I hope I say just that. "Festinger's
16 theory is definitely not a panacea to all business
17 problems. Certainly it does not explain all
18 behavior; it does not allow for unequivocal
19 predictions nor has it been offered by social
20 scientists as a complete answer. However, it may
21 provide the businessman and the researcher with a
22 broader frame of reference for understanding human
23 behavior."

24 That was the purpose of this article,
25 to present cognitive dissonance to the field of

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2017006732

Kassarjian - direct

1 management and say look, here is another way of
2 looking at things, and this is what cognitive
3 dissonance is and here is a study that we've got
4 as an example of what it means.

5 Q. Assuming that cognitive dissonance
6 resulted in the differences in the responses
7 between smokers and non-smokers, can you tell us
8 whether or not cognitive dissonance works on a
9 conscious level?

10 MR. BLEAKLEY: Objection to the form
11 of the question.

12 A. That's a very complex question as to whether
13 this tension creation is conscious or
14 unconscious. It involves very complex theorizing
15 as what even consciousness means and if anyone
16 could help me in wiggling out of answering that
17 question, I would like to because I don't know how
18 to deal with it. I simply don't know how to
19 answer whether something is at a conscious or
20 unconscious level.

21 Q. Do your best, sir. I don't want you
22 to wiggle out of anything. I would like an answer
23 to the question.

24 MR. BLEAKLEY: Object to the form of
25 the question.

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2017006733

Kassarjian - direct

1 A. If you mean by consciousness the types of
2 things that Sigmund Freud talked about, the deeper
3 layer of unconscious feelings and sexual drives
4 and libido and so on, then this is not at an
5 unconscious level.

6 Q. How do you define consciousness, a
7 conscious level versus an unconscious level, in
8 terms of your use of those terms in consumer
9 behavior?

10 MR. BLEAKLEY: Objection to the form
11 of the question.

12 A. Until right now, I'm embarrassed to say I
13 really gave it damn little if any thought. I just
14 am not interested in that area of theorizing about
15 what is conscious and what is not conscious.

16 Q. Does it make a difference in
17 understanding consumer behavior as to whether or
18 not cognitive dissonance works on a conscious or
19 unconscious level?

20 MR. BLEAKLEY: Objection to the form
21 of the question.

22 A. I don't know. I've never thought about it.

23 Q. Do you have an opinion as to whether
24 or not cognitive dissonance works on both a
25 conscious and unconscious level?

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Kassarjian - direct

1 MR. BLEAKLEY: Objection to the form
2 of the question.

3 A. I've just never thought about consciousness
4 as a critical variable in consumer behavior and
5 somehow you are implying that there are two kinds
6 of behavior, conscious and unconscious. More
7 likely it's a continuum and we have to draw the
8 line somewhere and I've just never thought about
9 it.

10 Q. You don't know where you would draw
11 that line on that continuum?

12 MR. BLEAKLEY: Objection to the form
13 of the question.

14 Q. Between conscious and unconscious.

15 MR. BLEAKLEY: Object to the form of
16 the question.

17 A. I don't even know what the words mean. I'm
18 sorry. In my world, they don't mean a damn
19 thing. I don't use them.

20 Q. Sir, does a person's use of a product
21 affect the individual's beliefs with respect to
22 risks associated with the use of the product?

23 MR. BLEAKLEY: Objection to the form
24 of the question.

25 A. I didn't understand it.

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Kassarjian - direct

1 Q. If I use a product and I've used a
2 product for a number of years and there has not
3 been any apparent injury to me from my use of the
4 product and all of a sudden I'm told that there
5 are risks regarding the use of the product, will
6 my prior use of that product affect my formulation
7 of beliefs with respect to the truthfulness of the
8 communication which I have received?

9 MR. BLEAKLEY: Objection to the form
10 of the question.

11 A. What you are saying is that if you are a
12 cigarette smoker, would you therefore believe that
13 the risks are more or less if you were not a
14 smoker?

15 Q. I really wasn't talking about
16 cigarette smoking specifically, sir. I'm talking
17 about products in general.

18 A. If you are a user of a product, then if you
19 are told that product is risky, that there's a
20 risk associated with it, that much I follow. Now
21 what's the question? You are a user of the
22 product and you are told the product has risk
23 associated with it. Therefore what?

24 Q. I'm the user of a product for some
25 number of years, let's say ten years, and I use

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Kassarjian - direct

1 this product every day and nothing adverse happens
2 to me. I'm told after ten years of use that there
3 may be some hazards regarding the use of the
4 product. Will my prior use of the product and my
5 experience with the product affect my perception
6 of the communication regarding the possibility of
7 the hazards?

8 MR. BLEAKLEY: Objection to the form
9 of the question.

10 A. If you are a long-time user of Tylenol and
11 then you are told there's a slight risk that
12 Tylenol has been tampered with, will it affect
13 your purchase of Tylenol? Hell yes. If you are a
14 user of Campbell's soup, cream of mushroom, and
15 you're told that cream of mushroom has botulism in
16 it, will it affect your belief even though you
17 used it for 100 years? Hell yes.

18 Q. With those two examples, you are
19 assuming that there has been some change that has
20 affected the product that I've used all these
21 years. I certainly didn't use the Campbell's soup
22 with botulism over the ten-year period. Otherwise
23 I would have gotten it. I didn't use
24 tampered-with Tylenol. Otherwise I would have had
25 some adverse effect.

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Kassarjian - direct

1 I'm assuming for the purpose of this
2 question that there is no change in the product
3 itself, that the product and my use of the product
4 remains the same and that there hasn't been any
5 tampering or contamination such as you used in
6 your examples.

7 A. You are a heavy user of aspirin and you are
8 told that aspirin causes stomach bleeding in some
9 people, does that affect your change in the use of
10 aspirin?

11 Q. Not change in the use of aspirin, my
12 information processing of that warning that
13 aspirin may cause bleeding, stomach bleeding in
14 some people.

15 MR. BLEAKLEY: Object to the form of
16 the question.

17 A. Will it cause a change in your information
18 processing, I don't understand the question.

19 Q. We'll use your example. I've been
20 using aspirin for ten years, been taking aspirin
21 every four hours, taking two aspirin every four
22 hours for ten years and then I am advised by
23 reading a newspaper article that there had been
24 studies that show that the use of aspirin has
25 resulted in stomach ulcers or stomach bleeding in

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Kassarjian - direct

1 some users. Will my past experience and use of
2 aspirin over that ten-year period without any
3 adverse results affect in any way my belief with
4 respect to the information concerning any
5 potential hazards?

6 MR. BLEAKLEY: Objection to the form
7 of the question.

8 A. Will it affect your perception of hazards?
9 I don't think so. In fact, if I understood the
10 question correctly, I don't think so. This is no
11 different than the Tylenol example except that
12 it's lower. You have been using it and every time
13 I use aspirin now, a few hours later if I get a
14 slight stomach pang, I wonder if my stomach is
15 bleeding. Half the time it's because it's morning
16 and I'm hungry but I never know and that's in my
17 thought. I'll never know. I don't know how to
18 find out. I keep looking in my belly button and
19 it looks normal, so I don't know if that's
20 answering your question. I'm having a lot of
21 trouble grabbing it. What is it you want me to
22 say?

23 Q. I don't want you to say anything. I'm
24 just trying to find out some information. That's
25 all I'm trying to do. In the field of consumer

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Kassarjian - direct

1 behavior, does the temporal relationship between
2 the potential risk and the use of the product
3 affect the consumer's belief with respect to any
4 potential hazard?

5 MR. BLEAKLEY: Objection to the form
6 of the question.

7 A. I'm beginning to understand what you are
8 saying. You have a model of a consumer as do a
9 number of experimental psychologists. Some people
10 in consumer behavior, as a great big computer that
11 takes in information and puts surveillances on
12 them, good, bad, and then takes in more
13 information and then somehow by using complex or
14 very simple mathematical models, adds these up and
15 makes a comparison, these are the good things and
16 these are the bad things and so on.

17 I don't think consumers behave in that
18 kind of a rational computer-like fashion for most
19 products, for the overwhelming number of
20 products. I don't know if cigarettes is or is not
21 there but in the overwhelming number of products,
22 people do things. Then if you push them on why
23 they did it, they give you rationalizations and
24 they give you answers as to why they did it, the
25 kind of thing we got here. They just do them.

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Kassarjian - direct

1 They make the decision. I simply personally do
2 not believe that the human being is one great big
3 computer data processing machine and that this is
4 the way we do things and this is the way we make
5 decisions. I really don't believe that when you
6 walk down a hall and you see what I see, a very
7 attractive young lady, I sit there and quickly
8 calculate waist size and ankle size and eyeball
9 color and relationship of nose to lips and then
10 decide she is beautiful. I look and I say you are
11 beautiful and then if you were to ask me why did
12 you say that, well then I might say the eyeballs
13 are blue and the nose is round.

14 I think we make the decision, we do it
15 and then we add rationalization when we are asked
16 for the great majority of products. That may not
17 be so in a businessman buying a main frame
18 computer. But for the great majority of decisions
19 by a consumer, it's made and we don't behave like
20 a computer. I also appreciate that there are a
21 number of my colleagues who disagree with that,
22 with my view, so I think I'm right and they think
23 they are right.

24 Q. Is what you are saying that most
25 consumer behavior is not, let's see if I can use

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Kassarjian - direct

1 the right phrase, a completely informed decision
2 with regard to the use of a product?

3 MR. FARRISH: Object to the form of
4 the question.

5 A. I would like to go one step further and say
6 probably all behavior is not completely informed.
7 How can we be completely informed about
8 everything, about anything, so on a very
9 philosophical level, we are not completely
10 informed. When I buy a shirt that says 65 percent
11 orlon and 35 percent cotton, I'm not completely
12 informed. I suspect it's not really 65 percent.
13 Maybe it's 64.9 percent. Maybe it's 72 percent.
14 I'm not completely informed but I make decisions
15 on what information I have and so the complete
16 information I think is just a philosophical
17 question, whether we can ever be completely
18 informed about anything.

19 Q. Do you think that most consumer
20 decisions with respect to the use of products are
21 informed decisions?

22 MR. BLEAKLEY: Objection to the form
23 of the question.

24 A. We have a lot of information about a lot of
25 products. If some of that information is

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Kassarjian - direct

1 utilized, then it's an informed decision. If none
2 of it is utilized, it's a non-informed decision.

3 Q. How does an expert in consumer
4 behavior ascertain what information a consumer
5 uses in making a decision?

6 A. That is very, very difficult because we
7 cannot really deal with the individual consumer.
8 We don't have the X-ray equipment or physiological
9 equipment to know that much about what he knows
10 and what he doesn't know. We've got to use polls,
11 we've got to use surveys, we've got to use studies
12 to get answers to questions like that.

13 Q. By asking people in surveys what
14 information they had when they made a decision?

15 A. That's not always good enough. Surveys
16 sometimes are not the best approach. It depends
17 on the precise question. You are asking these
18 broad, general questions and I'm trying to answer
19 them in a broad, general manner but it depends
20 precisely on what the specific question is that we
21 are trying to measure. Sometimes a survey is not
22 a good approach. Sometimes we need to use an
23 experiment. Other times you need to use a survey.

24 Q. How do people retrieve awareness, sir,
25 when you ask them a question as to what they were

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Kassarjian - direct

1 aware of at a certain point in time?

2 MR. BLEAKLEY: Objection to the form
3 of the question.

4 A. I don't think that any of us know what the
5 physiological mechanism is of retrieval.

6 Q. Are there any hypotheses that you are
7 aware of?

8 A. There's some little paper and pencil models
9 but that's just to make life a little easier. I
10 guess I don't even know what retrieve awareness
11 means. If I ask you have you ever heard about,
12 have you ever heard about Life cigarettes and your
13 brain spins away and thinks Life, Life, Life, have
14 I ever heard of Life cigarettes, we have no idea
15 what that brain process is for retrieval to answer
16 that question. I don't think anyone knows. I
17 think it will be decades until we even come close
18 to answering that. In fact, that is a Nobel
19 prize, if I've ever seen one, just sitting there
20 waiting to be plucked off.

21 Q. Have you ever conducted any opinion
22 surveys?

23 A. Oh, yes.

24 Q. With regard to what, sir?

25 A. The cigarette study that we talked about

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Kassarjian - direct

1 again and again is an opinion survey. I worked
2 for a year and a half for Facts Consolidated,
3 which is a commercial survey organization. We did
4 studies on a variety of products from Chung King
5 Food to the New York Times to Richard Nixon the
6 politician to Pat Brown the politician to
7 propositions on ballots to the Automobile Club on
8 you readership of their magazine. Who knows.
9 Dozens of products, dozens of political and social
10 issues in that year and a half.

11 Q. In your view of cigarette advertising,
12 have you ever seen a cigarette ad that you felt
13 was deceptive?

14 MR. BLEAKLEY: Objection to the form
15 of the question.

16 A. Have I ever seen an ad of the thousands,
17 maybe tens of thousands of ads I've ever seen that
18 I'm supposed to pull out of the air to say that
19 was a deceptive ad?

20 Q. We are bordering on information
21 retrieval here.

22 A. Yes. I have no idea how to do it. If I
23 did, I'd get the Nobel Prize.

24 Q. We are working on the Nobel Prize
25 tomorrow. Let's just work on some questions

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Kassarjian - direct

1 here. Do you recall seeing an ad which you
2 considered to be deceptive, a cigarette ad that
3 you considered to be deceptive? You don't have to
4 tell me what the ad was. All I want is an answer
5 as to whether or not you've ever considered any
6 cigarette advertising to be deceptive.

7 MR. BLEAKLEY: Object to the form of
8 the question.

9 A. I've never thought of it before. Pull out
10 an ad, show it to me and I'll give you my
11 opinion. I need to know the date that it was run.

12 Q. Why is that?

13 A. I need to know the times, the era, because
14 the meaning of an ad, the influence of an ad, its
15 effect of an ad and what we mean by deception is
16 that it has an affect that's different than the
17 truth. I would need to know whether it's true or
18 not and then I need to know -- it's my zeitgeist
19 that I keep coming back to. It's the times.
20 Critical, absolutely critical.

21 Q. Have you ever written a paper in
22 relationship to the zeitgeist?

23 A. No. It's just, that's not worth a paper.
24 That's not a publishable piece. Everybody accepts
25 that. That's like saying people see better under

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Kassarjian - direct

1 light than they see in the dark. I can't write a
2 paper like that. I would make an ass of myself.

3 Q. I wouldn't want you to do that.

4 A. Of course not.

5 Q. At least not here. Is there any
6 reference to zeitgeist in your 1964 paper?

7 A. The cigarette paper?

8 Q. Yes.

9 A. I just read it in the telephone booth and I
10 don't remember it.

11 Q. Have you ever published any article
12 subsequent to your '64 article which has been
13 marked as Kassarjian Exhibit 1 in which you
14 expressed any of the opinions that you related to
15 us today concerning changes in statements or
16 conclusions contained in Kassarjian Exhibit 1?

17 A. No. I never even thought about that until I
18 was a half hour before I had my lovely experience
19 in the telephone booth.

20 Q. Have you ever thought about the paper?

21 A. No. It was published. It's done. I'm done
22 with it. I'm amazed that anybody digs up a 25
23 year old paper and drags it over the coals.

24 Q. It was a paper regarding cigarettes
25 and health hazards. Right, sir?

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Kassarjian - direct

1 A. Yes, I'm sure.

2 MR. BLEAKLEY: Object to the form of
3 the question.

4 Q. Wasn't that the subject of the paper?

5 A. No. The subject of the paper is cognitive
6 dissonance. Cigarettes and health hazards are an
7 example to prove, to show those points. On the
8 other hand, the title does say that and I
9 appreciate that some information retrieval service
10 dug it up.

11 Q. You are participating in this case as
12 an expert witness and this case, as you
13 understand, involves cigarette smoking. Correct?

14 A. Right.

15 Q. You understand that you are going to
16 express opinions concerning testimony that's been
17 offered by Dr. Cohen. Correct?

18 A. I'm going to answer questions that people
19 ask. I don't know what people are going to ask me
20 so how can I tell you what I'll answer unless I
21 know the questions.

22 Q. You were asked to reviewed Dr. Cohen's
23 transcript of his deposition?

24 A. Yes.

25 Q. You were asked to tell the lawyers

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Kassarjian - direct

1 whether there were any things in the transcript
2 that you disagreed with. Correct?

3 A. Yes.

4 Q. You saw on the transcript Dr. Cohen's
5 use of the phrase cognitive dissonance, didn't
6 you?

7 A. It wasn't an important part of those five,
8 six hundred pages but I do remember seeing it,
9 yes.

10 Q. Do you have an opinion as to whether
11 or not in 1964 people were adequately advised
12 concerning the health hazards of cigarettes?

13 MR. BLEAKLEY: Objection to the form
14 of the question.

15 A. Adequately advised concerning the health
16 hazards. As they were known at that time or as we
17 know them to be today? Obviously they were not
18 adequately advised as to the problems of health
19 hazards in cigarette smoking for information that
20 was not known until today. For example, if it
21 causes liver damage or prostate cancer or colon
22 cancer or something which we didn't know about
23 then, how could they be advised of it?

24 Q. Do you have an opinion as to whether
25 or not consumers of cigarettes were adequately

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Kassarjian - direct

1 advised concerning the health hazards of cigarette
2 smoking in 1963 for all of those diseases which
3 were then known to be related to cigarette
4 smoking?

5 MR. BLEAKLEY: Objection to the form
6 of the question.

7 A. I can't tell you about all of those diseases
8 because I don't know that all of those diseases
9 were known. I can tell you this, that there was a
10 great deal of information that cigarette smoking
11 is not good for you. In fact, since the 1920s, we
12 had information out there that cigarette smoking
13 was not good for you.

14 In the 1930s I remember very clearly
15 my grammar school coach even not allowing people
16 who smoked to be on the football team. If you
17 wanted to be a football player, you didn't smoke.
18 We knew smoking wasn't good for you. We didn't
19 know how bad it might be in those years.

20 By 1964 when you looked the ads, I
21 think, and you talk to people at that point, I
22 would be quite confident in stating that people
23 knew cigarette smoking wasn't good. If you asked
24 a specific illness, did this cause arthritis of
25 the fingernail, I don't know how much of that they

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Kassarjian - direct

1 knew or if we talk about colon cancer, I don't
2 know that. I don't know if they were adequately
3 warned for specific diseases as you asked but I do
4 know that cigarette smoking was not a nice thing
5 as early as '64 and maybe as early as World War
6 II.

7 Q. But you don't know what people knew or
8 what they didn't know concerning the precise
9 health hazards of cigarette smoking?

10 MR. BLEAKLEY: Objection to the form
11 of the question.

12 Q. Is that correct?

13 A. In '64?

14 Q. In '63.

15 A. No, I don't know what people did or did not
16 know. I did not do a survey at that time to find
17 out.

18 Q. Do you have an opinion as to whether
19 or not it's the responsibility of a manufacturer
20 to advise its consumers of hazards arising out of
21 the use of their product?

22 MR. BLEAKLEY: Objection to the form
23 of the question.

24 A. That's not my field. That's a legal
25 question. I suspect there's a whole body of case

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Kassarjian - direct

1 law on that. -It's not my field.

2 Q. Have you ever expressed that opinion?

3 MR. BLEAKLEY: Objection to the form
4 of the question.

5 A. Who knows? After a couple of drinks at some
6 cocktail party, who knows what kind of an opinion
7 I might have given. With a few drinks in me, I've
8 got opinions about the czar, I've got opinions
9 about the Russians, and most of all I've got
10 strong opinions about our president. Who knows if
11 I've ever given an opinion on responsibility of a
12 manufacturer.

13 Q. Do you have an opinion with respect to
14 the effectiveness of warnings on products?

15 MR. FARRISH: Object to the form of
16 the question.

17 A. Do I have an opinion as to the
18 effectiveness? What warning, what product? Show
19 me and I'll give you an opinion, if I have one.

20 Q. Have you ever written papers
21 concerning the effectiveness of warnings on
22 products?

23 A. No, I have not. I don't remember -- I've
24 written a textbook in consumer behavior. I don't
25 think I'm -- I'm virtually positive there's

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Kassarjian - direct

1 nothing in there about the effectiveness of
2 warning labels. If you found a sentence or a
3 paragraph somewhere, I would like the right to say
4 whoops, I forgot.

5 Q. When was the last time you did any
6 original research?

7 MR. BLEAKLEY: Objection to the form
8 of the question.

9 A. Where I collected the data myself? Is that
10 what you mean by original research?

11 Q. Where you designed and supervised an
12 original research project in the field of consumer
13 behavior.

14 A. 1982. Since that time I was editor of the
15 Journal of Consumer Research and my full-time
16 responsibility was reading other people's
17 research, criticizing it, sending it out for
18 review and then publishing those papers that we
19 felt were scientifically adequate and were making
20 a contribution so the last real study I
21 conducted -- that's not true. 1982 is the last
22 article I published. I collected data on consumer
23 behavior in May of 1987.

24 Q. In regard to what, sir?

25 A. That was in regard to ethical values among

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Kassarjian - direct

1 consumers and businessmen, ethical beliefs.

2 Q. For the purposes of an article?

3 A. Yes.

4 Q. You were the primary individual
5 responsible for designing and overseeing the
6 survey. Is that correct?

7 A. Yes. Not survey, the study. I designed the
8 study, I invited an assistant professor at UCLA to
9 join me and she got all excited about it and so
10 she will be a co-author and will probably do some
11 of the data processing when we are done with it.
12 She is already on some content analyses and so I
13 brought an assistant professor in with me.

14 Q. Have you ever written any articles
15 criticizing cognitive dissonance?

16 A. No.

17 Q. Until your testimony here today as an
18 expert witness in this case, have you ever
19 publically in any speech, forget about drinks at a
20 party, but any speeches or in any lectures before
21 your peers conveyed the opinion that you didn't
22 think that cognitive dissonance was a valid theory
23 today?

24 A. No, I would never say that. I don't believe
25 it's true.

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Kassarjian - direct

1 Q. You believe that cognitive dissonance
2 is a valid theory?

3 A. It's one of many, many explanations of human
4 behavior and I accept it as another one.

5 Q. Is it a valid explanation of consumer
6 behavior?

7 MR. BLEAKLEY: Objection to the form
8 of the question.

9 A. I think it has usefulness in some cases and
10 in other cases it doesn't make a lot of sense. It
11 depends entirely on the specifics. I have nothing
12 against dissonance. In fact, I like Festinger.

13 Q. You have a problem with cognitive
14 dissonance in terms of cigarette smokers' beliefs
15 and behavior with respect to cigarette smoking.
16 Is that correct?

17 MR. BLEAKLEY: Objection to the form
18 of the question.

19 A. My problem is that you are making too much
20 of a small theory. You are looking for a handle
21 to say the reason people do X is Y. In this case
22 it is dissonance and in another case it would be
23 something else. I'm saying we can't be that
24 specific. We can't say the reason person A does X
25 is reason Y. There are many reasons and one of

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Kassarjian - direct

1 these explanations of how people behave, one of
2 many, is cognitive dissonance. It's a very nice
3 theory.

4 Q. What are some of the other theories
5 that you subscribe to that would apply to
6 understanding consumer behavior with regard to
7 cigarette smoking?

8 A. Learning theory, classical conditioning,
9 Freudian theory. It has all kinds of anal,
10 Freudian anal overtones, sucking on phallic
11 symbols and so on. I think that Horney's theories
12 could fit in here. I think that a lot of the
13 neoclassical Freudian theories, I think some of
14 the social psychological theories could be brought
15 to bear. I think one can, depending on what one
16 is expert in, whether you are a Freudian or a
17 learning theorist or a social psychologist, I
18 think you will bring in your pet views of trying
19 to understand human behavior and I'm saying they
20 all have something to say, let's listen to them
21 all.

22 Q. You think they are equally valid in
23 understanding consumer behavior in terms of
24 cigarette smoking?

25 MR. BLEAKLEY: Objection to the form

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2017006756

Kassarjian - direct

1 of the question.

2 A. I don't know what equally valid is. They
3 are all approaches to trying to explain. If one
4 of these was the right way and the others were the
5 wrong way, then we would all be using that and we
6 are not. We are all over the place.

7 Q. Do you have an opinion as to which of
8 these various theories you believe would best be
9 used in understanding consumer behavior with
10 regard to cigarette smoking?

11 A. Deep in my belly I suspect that a
12 physiological theory, which probably hasn't been
13 invented yet, will probably come pretty close,
14 that it will have physiologic reactions rather
15 than social psychological or psychiatric reasons.
16 I think there's a physiological basis for
17 addiction here and I don't think we have that
18 theory yet. If you want to know what I think will
19 some day emerge, I think we will see physiological
20 research emerging but that's not my field. In
21 fact, I almost failed zoology.

22 Q. What leads you to that conclusion?

23 A. You asked me my opinion. It's my gut
24 feeling.

25 Q. I want to know the basis for your

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Kassarjian - direct

1 feeling.

2 MR. PARRISH: Object to the form of
3 the question.

4 A. I just think that when you come down to it,
5 in the end we are talking physiology. You do that
6 yourself although you don't realize it. You asked
7 me about the retrieval of awareness or retrieval
8 of knowledge or something. What does retrieval
9 mean and what you are, I think, asking for is some
10 little computer-like flow chart of that's not how
11 people behave. People are chemicals and synapses
12 and neurons and if you really want to know how
13 people retrieve information, we have to know about
14 the neurons and synapses and what's happening in
15 the front lobes of the brain. It's a deep belief
16 that in the end it's physiology. In the end it's
17 neurons and chemistry.

18 Q. That will explain consumer behavior
19 with respect to cigarette smoking?

20 MR. BLEAKLEY: Objection to the form
21 of the question.

22 A. In the end I think that a lot of our
23 behavior patterns can be brought down to a
24 physiological response but we are many decades
25 from that. These are philosophical questions.

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Kassarjian - direct

1 They are better discussed over several bottles of
2 wine.

3 Q. Do you know about any research with
4 regard to the physiological response of cigarette
5 smokers to the use of cigarettes?

6 A. No, I do not. There is some research on it
7 I know by having seen an article or two in the
8 paper but I know nothing about it.

9 Q. Were you provided by Philip Morris
10 with their internal research in this regard?

11 A. No, I have not been.

12 MR. PARRISH: Object.

13 Q. Were you aware that they have been
14 carrying on this type of consumer behavior type of
15 research with regard to the physiology of
16 cigarette smoking for some number of years?

17 MR. PARRISH: Object.

18 A. I have no idea. I've never heard of it
19 before but that isn't exactly the most unbiased
20 scientific source either, is it?

21 Q. I'll subscribe to that.

22 MR. EDELL: We might as well break for
23 lunch.

24 (Luncheon recess.)

25 A P T E R N O O N S E S S I O N .

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Kassarjian - direct

1 Q. Did you review any depositions of Rose
2 Cipollone or any of her family members?

3 A. No, I did not.

4 Q. Did you review Professor Pollay's
5 deposition?

6 A. No, I did not.

7 Q. The only deposition transcripts that
8 you reviewed were those of Dr. Cohen's deposition?

9 A. The deposition? I don't know what
10 transcript means.

11 Q. A deposition is the proceeding that
12 you and I are participating in. The transcript is
13 the little booklet that she prepares from the
14 deposition.

15 A. Yes. I read the Cohen transcript.

16 Q. We were furnished with notes that you
17 made a various pages of the transcript. Were you
18 furnished with the entire deposition transcript
19 for Dr. Cohen's depositions?

20 A. Yes. In three volumes. I had it all.

21 Q. There are no notes other than those
22 pages that we have been provided?

23 A. The other pages don't exist.

24 Q. You discarded them?

25 A. Yes. As I read through a page, if I had

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Kassarjian - direct

1 something to say on it, I'd say it. Otherwise I'd
2 throw it away.

3 Q. If you had no comments with respect to
4 the testimony that Dr. Cohen offered on a
5 particular page, then you would simply discard
6 it. If you did have comments, then you wrote them
7 down on the page itself?

8 A. Yes. I can use my own copy?

9 Q. Certainly. The only caution I make is
10 that if we mark yours as an exhibit, Dr.
11 Kassarjian, then you will have the responsibility
12 of making sure that the transcript stays intact
13 and that you don't add any notes, that you don't
14 change it in any way and that it's available at
15 the time of trial.

16 A. Do I give a damn? Do I want this for any
17 conceivable reason? Anything you take away from
18 me is something less I have to carry.

19 Q. It would be our pleasure.

20 MR. EDELL: Would you mark that,
21 please.

22 (Kassarjian Exhibit 2 marked for
23 identification.)

24 Q. Dr. Kassarjian, can you tell us what
25 Kassarjian Exhibit 2 is?

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Kassarjian - direct

1 A. Kassarjian Exhibit 2.

2 Q. We marked the document as Kassarjian
3 Exhibit 2.

4 A. These are notes that I took on Joel Cohen's,
5 the transcript of Joel Cohen's deposition. The
6 remaining pages I threw away.

7 Q. When did you advise counsel that you
8 had notes?

9 A. On September 5 at two p.m.

10 Q. Did you furnish them with a copy of
11 the notes at that time?

12 A. Not until yesterday so we could Xerox them
13 off for you.

14 MR. BLEAKLEY: That's not exactly
15 right. We got copies of that from you last week
16 and supplied it to you last week.

17 MR. EDELL: You supplied it to me
18 under cover letter I believe of October 20
19 something. I don't remember the date.

20 MR. BLEAKLEY: It wasn't yesterday.

21 MR. EDELL: It wasn't September 5.

22 MR. BLEAKLEY: No, it wasn't September
23 5.

24 THE WITNESS: We Xeroxed something
25 yesterday.

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Kassarjian - direct

1 MR. BLEAKLEY: Yes. That was the
2 notes on the Pollay document.

3 THE WITNESS: Fine. I'm wrong, as
4 usual.

5 Q. The second page of Kassarjian Exhibit
6 2, does that record the hours that you spent on
7 this case?

8 A. Not on this case. On this transcript.

9 Q. Reviewing the transcript?

10 A. Yes.

11 Q. When were you first contacted by
12 someone representing one of the defendants in this
13 case?

14 A. My very, very first contact was sometime in
15 maybe 1985.

16 Q. Who did you speak with at that time?

17 A. It was a lawyer from San Francisco, Purvis,
18 I believe, and I think he had a colleague with
19 him. They came in and asked a lot of questions
20 about cigarette smoking and information processing
21 and who the leading experts in the country were on
22 the topic.

23 Q. What did you tell them?

24 A. I gave them whatever names I could think of.

25 Q. You don't remember what those names

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Kassarjian - direct

1 are? You told me --

2 A. I mentioned Cohen. I think I mentioned Duke
3 University, Jim Bettman, Lynch, there was a fellow
4 named Lynch at Florida I think I mentioned and I
5 don't remember who else. I'm confabulating now
6 thinking of what I said two years ago.

7 Q. Do you consider yourself to be an
8 expert in information processing?

9 A. No, not an expert.

10 Q. What is information processing?

11 A. It's the latest or the next to latest fad in
12 consumer behavior that emerged out of experimental
13 psychology and social psychology on how people
14 process information involving memory factors and
15 recall of memory and some of the jargon you were
16 using comes from the information processing
17 literature. It's an area of study, particularly
18 on memory, emerging out of social and experimental
19 psychology.

20 Q. Have you written any papers on
21 information processing?

22 A. No, I have not.

23 Q. Have you read any papers on
24 information processing?

25 A. Information processing in its narrowest

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Kassarjian - direct

1 sense, meaning memory retrieval, memory factors, I
2 have not. I find lately that the word information
3 processing is being used to cover the whole
4 field. If in fact we are going to call the whole
5 field of consumer behavior or damn near the whole
6 field information processing, then I've written
7 many papers on it so it depends how one defines
8 the word information processing. If we mean
9 experimental psychology, the answer is no, I have
10 not written. If we broaden it out, then yes, I
11 have written many papers.

12 Q. When you say this fad, do you consider
13 information processing theory to be a fad as
14 opposed to an accepted theory?

15 MR. BLEAKLEY: Objection to the form
16 of the question.

17 A. No. It's just that research topics take on
18 a character of being popular at certain points in
19 time, depending on the era or the zeitgeist and at
20 other times research topics tend to become popular
21 and in the early 1980s information processing was
22 a very popular topic for research and that's what
23 I mean by fad. Nothing more than that. Before it,
24 it was attitudes and before that, it was
25 personality and before that, it was perceived

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Kassarjian - direct

1 risk.

2 Q. After that contact, when was your next
3 contact with the cigarette industry?

4 A. I think in early 1986, yes, early '86 I was
5 contacted by Mr. Silfen. I think he came to Los
6 Angeles once or twice because I was having some
7 dental work done and I know I stood him up in my
8 office for hours and I think that was early '86
9 and again it was just this reaching out of what is
10 there in this field, what is it we should know
11 about, what's the field about.

12 Q. What field are you referring to?

13 A. Consumer behavior.

14 Q. What did you tell him?

15 A. I just told him, answered his questions. I
16 don't remember what the questions were.

17 Q. You said he asked you what they should
18 know with respect to the field of consumer
19 behavior. What did you tell him?

20 A. I may have given him some articles to read.
21 I don't remember.

22 Q. What articles?

23 A. Probably some articles I had written.
24 Whatever I had in my office. I really don't
25 remember.

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Kassarjian - direct

1 Q. Go ahead.

2 A. Then I went to, somewhere there was another
3 meeting in Washington where I ran into Silfen in
4 early 1986. All I knew at the time is that they
5 didn't know what was going on, they didn't know --
6 I was told they didn't know what was happening, if
7 there would be a trial, who the witnesses would be
8 and what it would be about and they were just
9 gathering information and then the next time I
10 got -- that was early '86. Then I wasn't
11 contacted again until 1987, somewhere in maybe
12 late July of '87, about a year and a quarter there
13 I had no contact.

14 Q. In addition to the transcript of Dr.
15 Cohen, what other materials did you review with
16 respect to your opinions in this case?

17 A. In the summer of '87, I had the Pollay
18 report. Then in August of '87 I got the Cohen
19 deposition. It might have been that in '86 or
20 '85, somewhere I have some other stuff. I have a
21 couple of Xerox articles, something about women
22 and smoking and I think I had an article by
23 somebody else, Warner, Warner, somebody, which I
24 skinned and decided it wasn't relevant to me and
25 put it aside and have promptly forgotten.

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Kassarjian - direct

1 I think there was an article, I think
2 there was a stack of stuff which I thought was
3 kind of fun to read and then ignored it, Calfey,
4 Cavey, an FTC report, which I had looked at and
5 thought there was historical stuff that was
6 interesting when cigarette advertising started and
7 skimmed it and put it aside and forgot about it.

8 Then there were a few ads, about six
9 Xerox copies of six or seven ads which are kind of
10 fun to look at because old ads are always kind of
11 fun to look at. That's it as far as I can
12 remember.

13 Q. Let's go through Kassarjian Exhibit 2
14 so that I can understand your handwriting and what
15 your comments relate to. We are on page 96, sir.

16 A. Yes.

17 Q. Can you read to us your comments in
18 the left-hand column and what those comments refer
19 to?

20 A. "Advertising alone" is a question mark. I
21 was reacting to something that was written here
22 and I can't pick it up. "The information
23 environment would be a largely positive one in
24 regard to the positive associations with regard to
25 smoking." I think I was saying does he mean to

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Kassarjian - direct

1 imply advertising alone was the information
2 environment. It was more of a question mark. The
3 last statement by Cohen is that the information
4 regarding cigarettes and underemphasized health
5 related concerns about cigarettes, I said yes,
6 they may have been underemphasized but the
7 health-related concerns are there. They were
8 clearly there.

9 Then my comment on the bottom is an
10 editorial, which merely says, "All health
11 advertising implies something is wrong." I got
12 here my little McDonald hamburger example, that
13 every time you say less irritating in an ad or you
14 say contains less tar, what you are implying is
15 the product contains tar but this product, this
16 brand contains less than the other brand. You are
17 reminding people of the health danger of the
18 product. Every ad with its little FTC disclaimer,
19 whatever that's called, on the bottom, the viewer
20 that there are health dangers in the cigarette.

21 Q. What studies did you perform in order
22 to come to that conclusion?

23 A. I performed no studies at all. It's based
24 entirely on my 25, 30 years of experience in this
25 field and the hundreds of studies that have been

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Kassarjian - direct

1 written and studied in other areas. Negative
2 information has a strong impact. One of them I
3 mentioned was a series of studies on McDonald's
4 worms.

5 Q. You've done no studies in order to
6 determine what impact the tar and nicotine figures
7 have on consumers. Is that correct?

8 A. That's not even my field. The impact of tar
9 and nicotine is a medical or physiologic, biologic
10 field of study, not consumer study.

11 Q. I said the figures in advertising.
12 You referred to the Federal Trade Commission
13 numbers with respect to nicotine and tars. Did
14 you do any study in order to ascertain what impact
15 those figures have on people?

16 A. No. I have not conducted any studies on
17 this project at all.

18 Q. Aside from this project, have you ever
19 conducted a study to determine what impact those
20 figures in advertising have on people who read the
21 ads?

22 A. No. Let me broaden that and say I've done
23 no studies on cigarettes or cigarette advertising
24 except the 1964 study, which everyone is claiming
25 is about cigarettes when in fact it is not.

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Kassarjian - direct

1 Q. Page 103.

2 A. I've written, "Talks about big picture,
3 novel, movies, books but focus on advertising."
4 In this point what I'm trying to say is that Cohen
5 has been talking about either here or on the pages
6 before about things like the information
7 environment and all of the influences that are in
8 the information environment on the individual but
9 he keeps focusing in on just one little piece of
10 that, advertising, rather than novels or movies,
11 books and TV shows and radio programs and all of
12 the other things that go into the information
13 environment. What I'm saying below that is that
14 advertising is fine but it's a minor part of the
15 gestalt, the totality that surrounds smoking.

16 Q. What studies show that advertising is
17 a minor part of the information environment?

18 MR. BLEAKLEY: Objection to the form
19 of the question.

20 A. There are no studies that I've conducted or
21 have read that discuss that issue. This is not an
22 important issue to the world.

23 Q. Your opinion that advertising has only
24 a minor effect on the information environment is
25 simply based upon your experience as opposed to

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Kassarjian - direct

1 any actual research that you've conducted." Is
2 that correct, sir?

3 A. That's correct.

4 Q. If there is an ambiguous information
5 environment, how does that affect consumers?

6 MR. BLEAKLEY: Objection to the form
7 of the question.

8 A. I haven't got the vaguest idea what
9 ambiguous information environment means.

10 Q. If there is information, for example,
11 with respect to cigarettes that cigarette smoking
12 and its relationship to diseases has not been
13 proven and there's also information that it has
14 been proven that cigarette smoking causes
15 diseases, how will that effect consumers?

16 MR. BLEAKLEY: Objection to the form
17 of the question.

18 A. That's simply not ambiguous. I don't
19 believe there's any ambiguity at all. I don't
20 think there's been any ambiguity since World War
21 II. Smokers and non-smokers alike know that
22 cigarettes was not a safe, healthy product. It
23 may not be bad for you. We may not be sure of
24 that but we know it isn't good for you. We have
25 always known that. The consumer has always known

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Kassarjian - direct

1 cigarette smoking is not good for you. That's not
2 ambiguous.

3 Q. Have cigarette smokers always
4 understood how bad cigarette smoking might be?

5 MR. BLEAKLEY: Objection to the form
6 of the question.

7 A. I don't know what they understood. I do
8 know that even today we don't know how bad it
9 might be. That's something to find out in the
10 long-run.

11 Q. Page 107.

12 A. On the bottom I said, "Survey from early
13 1900s of stories about smoking in popular press
14 unpublished." Pollay has apparently written a
15 very interesting, what appears to be an
16 interesting paper on the history of advertising
17 and he surveyed the literature, I gathered from
18 this, from the 1900s about all the stories about
19 advertising, about smoking in the popular press,
20 but it's unpublished, 1987, so I jotted this down
21 to myself thinking gee, I bet that would be
22 interesting to see that, I wonder how one gets
23 hands on something that's unpublished and not
24 available to real people so that was just notes to
25 myself.

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Kassarjian - direct

1 Q. Next page, 121.

2 A. The comment here is, "Dr. Cohen is expected
3 to testify that tobacco industry marketing and
4 advertising are significantly responsible for
5 creating the described information environment for
6 cigarettes." I thought that was an
7 overstatement. I at that point could not imagine
8 that Cohen would testify that advertising and
9 advertising alone is significantly responsible for
10 creating an information environment. I thought
11 that was just lawyer hyperbole.

12 Q. Where does it say that cigarette
13 advertising and cigarette advertising alone are
14 significantly responsible for creating the
15 described information environment for cigarettes?

16 MR. BLEAKLEY: Objection to the form
17 of the question.

18 A. You asked me what the overstatement is and
19 I'm telling you why I wrote the word
20 overstatement. It's because I thought this was an
21 overstatement of the facts, that advertising -- I
22 don't want to quibble about the point. That isn't
23 it. That's why I wrote the word overstatement.
24 That's what I understood.

25 Q. In what way does it overstate

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Kassarjian - direct

1 advertising's effect on the information
2 environment for cigarettes?

3 A. "Advertising is significantly responsible
4 for creating the described information
5 environment," I think is wrong. It is not
6 significantly responsible. It may have a very
7 small effect, a small vector. We can't deny that
8 some advertising sometimes has some effect. I
9 don't mean to do that by any means. On the other
10 hand, to state that advertising is significantly
11 responsible for creating a zeitgeist, an
12 information environment, is an overstatement, I
13 feel.

14 Q. Is zeitgeist the same as information
15 environment?

16 MR. BLEAKLEY: Objection to the form
17 of the question.

18 A. I don't know what information environment
19 means. That's jargon that Cohen has developed.

20 Q. What is Joel Cohen's reputation in the
21 field of consumer behavior?

22 A. I have not done a study. I can tell you my
23 opinion of Joel Cohen.

24 Q. First I want to find out whether or
25 not he has a reputation in the community, not

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2017006775

Kassarjian - direct

1 whether you've done a poll but whether or not you
2 have an understanding as to how his peers view him
3 in the area of his expertise in consumer behavior.

4 A. Yes, he is one of the starters of the
5 field. He is very intelligent. I'm sure people
6 will agree he is a very intelligent person. He
7 holds strong opinions. Whatever his opinions are,
8 he holds them very, very strongly. To me he is a
9 very close and dear friend of thirty years and I
10 have great respect for the man.

11 Q. Have you testified in a case with him
12 at all?

13 A. He once called me on the phone and asked me
14 who I thought some of the really best content
15 analysis researchers in the country were,
16 particularly from the field of communications,
17 research and sociology, and I talked a bit about
18 Arhenberg's school in Pennsylvania and was trying
19 to think of some of the old names and then he said
20 something about cigarettes and cigarette smoking
21 and so I said Joel, shut up, hang on, I don't
22 think you want to talk to me on this, are you
23 working on a case, and I think he said yes. I
24 said is it for the defense or whatever the other,
25 somehow I asked him, I can never remember who the

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2017096776

Kassarjian - direct

1 plaintiffs and the other guys are but I was pretty
2 sure it was a cigarette case. I had no idea it
3 would be this one, the one I had talked to these
4 guys, but I said Joel, I've talked to these
5 people, let's not talk about it any more and he
6 said all right but I don't think that's an
7 important problem. I just want to know who you
8 think some of the best people in the country are
9 and so we talked a couple of more minutes and I
10 said Joel, let's not talk about this topic again
11 and that ended it. I've seen him several times
12 since then and neither of us have brought the
13 topic up. We are smarter than that.

14 Q. How many cases have you acted as an
15 expert witness in?

16 A. Once or twice a year, once a year, one and a
17 half times a year maybe.

18 Q. For how many years?

19 A. Ten, fifteen.

20 Q. You've participated in approximately
21 twenty cases?

22 A. Ten, fifteen, twenty, yes, I don't remember.

23 Q. You don't know the difference between
24 the plaintiffs and the defendants in a case?

25 MR. BLEAKLEY: Objection to the form

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Kassarjian - direct

1 of the question.

2 A. I just don't bother. I don't care. It
3 makes no difference to me. The good guys and bad
4 guys is what I usually call them.

5 Q. Who are the good guys and who are the
6 bad guys in this case?

7 A. The side I'm on is the good guys and the
8 other side are the bad guys. What do you call
9 them? I don't know.

10 Q. How much do you charge in these cases?

11 A. \$200 an hour.

12 Q. Do you do other consulting work?

13 A. Very seldom.

14 Q. When was the last time you acted as a
15 consultant outside of the area of litigation?

16 A. For pay or because someone -- people are
17 constantly calling me and I try to palm them off
18 because I don't like consulting.

19 Q. When was the last time somebody paid
20 you to act as a consultant, sir?

21 A. A bunch of years. A long time.

22 Q. A bunch of years, five, ten, fifteen,
23 twenty? How many?

24 A. Five.

25 Q. Turn to page 122.

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Kassarjian - direct

1 A. Okay. On top is the word pot. Somewhere
2 Cohen had been talking about the fact that
3 cigarette advertising was responsible for getting
4 people to smoke cigarettes or something to that
5 effect and my thought was if that's the case, how
6 do you explain popularity of marijuana where
7 there's been no advertising or of snorting cocaine
8 where there's been no advertising so that's what
9 the word pot means, just a reminder to myself that
10 if Joel goes out too far on claiming that
11 advertising is entirely responsible for cigarette
12 smoking, then I wonder how he would explain the
13 popularity of marijuana.

14 Q. Do you have an opinion as to whether
15 or not if marijuana or cocaine were legalized and
16 if the volume of advertising was similar to that
17 of cigarette advertising it would affect the use
18 of marijuana and cocaine?

19 MR. BLEAKLEY: Objection to the form
20 of the question.

21 A. I don't have the vaguest idea. There's too
22 many ifs in there.

23 Q. Do you know when cigarettes first were
24 advertised?

25 A. There's a fellow named Burt Raven, a

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Kassarjian - direct

1 psychologist, who has gathered all the old
2 advertising of cigarettes and I have heard him
3 talk on that and I think it was at the turn of the
4 century but it was based on his speech, not on
5 knowledge of my own.

6 Q. Have you done any analysis of
7 increased expenditures in advertising by cigarette
8 manufacturers and the consumption of cigarettes?

9 MR. BLEAKLEY: Objection to the form
10 of the question.

11 A. No, I haven't.

12 Q. Would you find that information useful
13 in formulating your opinions in this case?

14 MR. BLEAKLEY: Objection to the form
15 of the question.

16 A. The information you are talking about is
17 advertising expenditures?

18 Q. Yes.

19 A. No, I don't care.

20 Q. Would you find it useful to ascertain
21 the circulation and frequency of advertising with
22 respect to its relationship to any increases or
23 decreases or changes at all in the consumption of
24 cigarettes?

25 MR. BLEAKLEY: Objection to the form

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Kassarjian - direct

1 of the question.

2 A. No, I would not believe those data. I don't
3 think that there is data that can show you that
4 advertising has an effect, positive or negative,
5 on the consumption increase or decrease of smoking
6 or any other product. The only place where I
7 would back off on that is mail order advertising
8 where you run the ad and you know how many orders
9 come in, but any other kind of advertising, any
10 measure of effectiveness is inaccurate and
11 inadequate.

12 Q. Is it your opinion that advertising
13 does not increase sales?

14 MR. BLEAKLEY: Objection to the form
15 of the question.

16 A. No, I will not make that claim.

17 Q. Do you know whether or not advertising
18 for a product increases sales?

19 A. That cannot be answered. In some conditions
20 where we can measure it like mail order
21 advertising, mail order catalog advertising, we
22 can go ahead and measure and see what the effect
23 of advertising to sales are. In a very few other
24 conditions like Lydia Pinkham's menstrual pain
25 medicine, there is some reasonable data on the

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Kassarjian - direct

1 relationship between advertising and sales.

2 Nowhere else is that data found where those kind
3 of claims are made or can be refuted.

4 Q. Page 122, is that an overstatement
5 again, sir?

6 A. "If it wasn't for the marketing and
7 advertising of cigarettes, there wouldn't be much
8 of an information environment regarding
9 cigarettes. The tobacco companies were the prime
10 movers." If I understand that statement, Joel is
11 saying that the tobacco companies is what created
12 the information environment or what I'm calling
13 creating the zeitgeist and you can't give tobacco
14 companies or anyone else that kind of credit. If
15 we could give them that kind of credit, they
16 should be billionaires. Well, I guess they are.

17 Q. What's the next comment, sir?

18 A. Let me read it. "Just like movie producer,
19 advertising picking up on the existing gestalt,
20 the existing zeitgeist." What I'm saying here is
21 that what advertisers are doing is they are
22 sensitive to the direction, the times they are in
23 and the kind of advertising they are doing and the
24 messages and the appeals they are getting to is
25 reflecting that zeitgeist, that gestalt of the

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Kassarjian - direct

1 times. Movie producers will do this to get some
2 kind of effect so right now we see an awful lot of
3 advertising toward yuppies because this is the era
4 of yuppies so there's all kinds of advertising for
5 athletic shoes and yuppy food and yuppy clothes
6 and so on. They are cashing in on the times.

7 Q. Are you aware that manufacturers pay
8 producers of films to use their products?

9 MR. BLEAKLEY: Objection to the form
10 of the question.

11 MR. PARRISH: Object to the form of
12 the question.

13 A. I have no idea what the motion picture
14 industry does or doesn't do.

15 Q. Read your next comment on page 122.

16 A. Somewhere Cohen is talking about advertising
17 and sometimes he means advertising and sometimes
18 he means marketing and it's not clear from his
19 deposition just where the lines are on advertising
20 and marketing so I jotted some of the things I
21 would put in marketing but not call advertising as
22 I was thinking about what he had been saying,
23 package, coupons, promotion, product, place,
24 price, free gifts are all part of marketing and
25 promotion but are not advertising and so it was

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Kassarjian - direct

1 just mumbling to myself on divisions.

2 Q. Do these other forms of marketing
3 contribute to the information environment?

4 A. They are part of it. Do they contribute to
5 it? Everything contributes to it. We'll give
6 everybody credit. They can all have it.

7 Q. Page 126.

8 A. "Perhaps but very small role." Cohen here
9 says marketing and advertising had a major role
10 leading up to some development. I remember what I
11 wanted to say, that advertising and marketing may
12 have a role in changing the times and attitudes
13 and so on but it's just a small role. At best
14 it's a small role. We cannot call it a major
15 role, a prime mover, the cause. These kind of
16 things I think are overstatements.

17 Q. What research do you base that
18 statement on?

19 A. On 25 years of experience on all forms of
20 consumer behavior that are in the literature.

21 Q. What studies are you aware of that
22 have evaluated advertising on the information
23 environment?

24 A. I can't give you any specific studies.

25 Q. Let's move on to your next comment.

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Kassarjian - direct

1 A. "Exaggerated to give that much credit to
2 advertising." What I was saying is he was giving
3 too much credit to advertising. Now let's see
4 what he said. (Examining document.) He is saying
5 that it was marketing and advertising that were
6 largely responsible. It's these gross words,
7 largely, most, prime, that I'm objecting to, but
8 "largely responsible for creating a symbolic
9 association of cigarettes with lifestyles and
10 glamour and sophistication, et cetera.

11 I don't believe it was marketing and
12 advertising. It was the social setting. It was
13 the times that gave smoking its lifestyle and its
14 glamorous view. It was Talullah Bankhead smoking
15 a cigarette. It was Bette Davis in a movie
16 smoking a cigarette that started to make it
17 glamorous. Cigarette smoking was the way that
18 women could show in the twenties and thirties that
19 they had become liberated from being under the
20 thumbs of their daddies and that they were now
21 adult and so all of these contributed and
22 advertisers jumped on and showed cigarette smoking
23 in glamorous positions with "liberated women.
24 That's fine but to say that it was advertising
25 that caused glamour or whatever is saying too

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Kassarjian - direct

1 much. It may have been part of it but it didn't
2 cause anything. It was reflecting the times and
3 the glamour of cigarette smoking, not causing it
4 in my opinion.

5 Q. What, if any, role did marketing and
6 advertising have in the creation of symbolic
7 associations of cigarettes with lifestyle, glamour
8 and sophistication?

9 MR. BLEAKLEY: Objection to the form
10 of the question.

11 A. It was a question I thought I just
12 answered. It jumped on the bandwagon. It might
13 have added a little bit. Let's give it a little
14 bit of credit after all but not largely or mostly
15 or prime, not those kind of words.

16 Q. What, if any, effect did the symbolic
17 association of cigarettes with lifestyle and
18 glamour and sophistication have on the information
19 processing of individuals with respect to
20 information regarding the health hazards of
21 cigarettes?

22 MR. BLEAKLEY: Objection to the form
23 of the question.

24 A. I didn't understand the question. I don't
25 even understand exactly what you mean by

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Kassarjian - direct

1 information processing. If you mean the whole
2 field of consumer behavior or what, I don't know.

3 Q. The new fad that we were talking about
4 before.

5 MR. BLEAKLEY: Objection to the form
6 of the question.

7 A. In that case, I don't understand the
8 question at all.

9 Q. Next page, 127.

10 A. What I have written is, "Not conclusive that
11 advertising is the major culprit but one small
12 vector reflecting the times, the zeitgeist." God,
13 I'm getting bored with that term. Not that
14 advertising is the major culprit is basically what
15 I'm saying but I don't know what I'm reacting to.
16 (Examining document.)

17 Q. Is there any way to conduct a study to
18 see whether or not conclusively advertising was
19 the major culprit?

20 MR. BLEAKLEY: Objection to the form
21 of the question.

22 A. Even the thought I find alien. The study if
23 it was the major culprit, of course not. There
24 are so many factors, then you could have said is
25 there any way to do a study to find out if

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Kassarjian - direct

1 interpersonal communication or what sorority
2 sisters were saying was the major culprit. There
3 were many factors. Advertising is one of these
4 many, many factors.

5 Q. What's the major cause of people
6 beginning to use cigarettes?

7 MR. BLEAKLEY: Objection to the form
8 of the question.

9 A. Social interaction with others, peer group.

10 Q. What study did you perform in order to
11 conclude that that was the main cause?

12 MR. BLEAKLEY: Objection to the form
13 of the question.

14 A. I have not conducted any studies.

15 Q. How would you devise a study to reach
16 that conclusion?

17 A. I can't sit here in the atmosphere of a
18 deposition and devise a study for you.

19 Q. Let's take a look at page 128.

20 A. What I meant to say here -- again I'm not
21 sure of the context -- but what I said here is
22 that Joel is backing off on a statement he has
23 made. He may have been listening to himself and
24 he is backing off from his statements. He is
25 wiggling a little bit.

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Kassarjian - direct

1 Q. In regard to what?

2 A. I don't know. Hang on. (Examining
3 document.) "I don't think you could expect to
4 find any statement that said specifically that
5 because a given cigarette company produced a
6 certain symbolic association for a cigarette, such
7 and such filmmaker picked that up and used in a
8 given movie." What he said before is that
9 advertising is the prime mover to the times. Here
10 he is backing off from that and saying I don't
11 think you are going to find any kind of a
12 statement that specifically says it was
13 advertising that was the prime mover, it was
14 advertising that caused movie producers to give a
15 cigarette to Talullah Bankhead or Bette Davis, it
16 was advertising that caused anything, and it's
17 that statement he is backing off from.

18 Q. Page 146.

19 A. He turns around and gives too much credit to
20 advertisers in my opinion. He turns around. What
21 he is saying is that, "The major responsibility
22 for the existence of the information environment
23 in the first place needs to be placed at the door
24 of the tobacco industry." I can't accept that.
25 He can go ahead and think it. Joel is a very

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Kassarjian - direct

1 smart person but to give credit at the door of the
2 tobacco industry for creating an entire era for
3 smoking, gosh, if only advertisers could do that,
4 if only advertisers could control the world that
5 way.

6 Q. Where is era, e-r-a?

7 MR. BLEAKLEY: Objection to the form
8 of the question.

9 Q. Where does Joel Cohen use that term?

10 MR. BLEAKLEY: Objection to the form
11 of the question.

12 A. That's my term.

13 Q. Where does it say in this deposition
14 that it's Dr. Cohen's opinion that the major
15 responsibility for the era in which people were
16 smoking should be placed at the door of the
17 tobacco industry?

18 MR. BLEAKLEY: Objection to the form
19 of the question.

20 A. The quote is, "The major responsibility for
21 the existence of the information environment in
22 the first place needs to be placed at the door of
23 the tobacco industry." Let me rephrase my answer
24 by saying to give the advertising industry credit
25 for creating an information environment of this

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Kassarjian - direct

1 sort I think is an overstatement.

2 Q. Page 148?

3 A. My statement is, "Disagree that these are
4 differences" and then later I say, "Car and
5 cigarettes not that different." Here he is
6 talking about a car example and doesn't like
7 comparing cars with cigarettes so that it's just a
8 lot of mumbling here about automobiles and cars
9 and cigarettes and I thought that advertising for
10 cars and cigarettes were not all that different.
11 It's a minor kind of comment. Later someone
12 switches him to coffee, whoever the questioner is,
13 says what about coffee, and as I remember, it
14 comes later, Cohen says coffee is more like it and
15 so it was just mumbling to myself as I was reading
16 it. Nothing significant.

17 Q. Let's take a look at your mumbling on
18 149.

19 MR. BLEAKLEY: Objection to the form
20 of the question.

21 Q. I meant that in jest, Dr. Kassarjian.
22 I hope you took it that way.

23 A. "Can't answer question."

24 MR. BLEAKLEY: I meant my objection in
25 jest. I hope you took it that way.

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Kassarjian - direct

1 MR. EDELL: I always take it that way,
2 Mr. Bleakley.

3 A. My comment on page 149 is, "Can't answer
4 question, chicken-egg problem, can't measure.
5 Cohen is flopping around." What's the point?
6 (Examining document.) He's being asked some of
7 these impossible questions again. Here he was
8 asked what research would you conduct if you
9 wanted to see if coffee was a prime mover in the
10 information environment, if advertising was a
11 prime mover in the information environment for
12 coffee and it's another one of these unanswerable
13 questions and so Joel does his best and he kind of
14 flops around and he really can't answer it because
15 you don't know what comes first; is it the
16 advertising that comes first, is it the coffee
17 that comes first, and poor Joel like me is just
18 struggling to give an answer to a question that is
19 unanswerable.

20 Q. Let's take a look at page 155.

21 A. Page 155, the words I have written are,
22 "Fine, I agree, but minimizing something out
23 consequence-low cough, irritation." I haven't the
24 vaguest idea what that means. (Examining
25 document.) He was asked a question. I don't know

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Kassarjian - direct

1 what the heck the question was. What he basically
2 said is that, he is testifying that in his opinion
3 the information environment of the time ignored,
4 denied or minimized the health-related
5 consequences of smoking. That was it. His
6 statement was that he felt that advertising at the
7 time, I don't know when the time is --

8 Q. I think the question appears to be at
9 the top of page 155.

10 A. Right. Joel said yes, felt that at the time
11 the information environment and he means by that
12 advertising plus everything else, ignored, denied
13 or minimized the health-related consequences of
14 smoking. My reaction is fine, I agree but
15 minimizing is not the same as not including
16 because advertising at that time, if I remember it
17 correctly, although I was pretty young, had a lot
18 of advertising like, "Not a cough in the carload,"
19 less throat irritation, one of them had something
20 about a T-Zone, less irritation in the T-Zone,
21 smoke cools because they are cooler.

22 Every time one of these ads come
23 along, Smoke cools because "it's less irritating"
24 or "Smoke Camels because it irritates your T-Zone
25 less," what that ad is saying in a very real sense

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Kassarjian - direct

1 is these products are irritating, they are not
2 good products; however, ours is better than the
3 competition and so these are brand switching type
4 ads. They're saying less irritating does not mean
5 not irritating. It means cigarettes are
6 irritating and ours is less than our competitors
7 so smoke ours.

8 That's what I mean by yes, the health
9 hazards were minimized in the forties but the
10 claim that there was no, the claim that people did
11 not know that cigarette smoking is bad for you is
12 just not true. They knew. Look at the ads. They
13 will tell you they knew.

14 Q. What studies did you perform in order
15 to come to that conclusion?

16 MR. BLEAKLEY: Objection to the form
17 of the question.

18 A. I performed no studies at all.

19 Q. What types of studies could you
20 perform in order to confirm your judgment in that
21 regard?

22 MR. BLEAKLEY: Objection to the form
23 of the question.

24 A. I would have to think about the answer to
25 that at some length. I can't under these

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Kassarjian - direct

1 conditions.

2 Q. Did you perform a content analysis of
3 the advertising in the 1960s?

4 MR. BLEAKLEY: Objection to the form
5 of the question.

6 A. That would be one way to answer your
7 question.

8 MR. BLEAKLEY: He asked you if you
9 did.

10 A. No, I did not. Can I back up? I did not
11 perform a formal content analysis. I didn't look
12 at some ads in an informal manner much as a
13 reporter or analyst would look at them or a layman
14 would look at them and draw those conclusions.

15 Q. But you didn't do a formal content
16 analysis in a scientific and objective fashion
17 that would be accepted in the field of consumer
18 behavior. Is that right?

19 A. I did not.

20 Q. Look at page 156.

21 A. My handwriting if I can read it is, "No, can
22 discuss environment and how people in general may
23 have perceived but not any given individual."

24 Now, what did he say? (Examining
25 document.) Oh, poor Joel, he has gotten carried

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Kassarjian - direct

1 out on a limb in the questioning and he was
2 dangling there on this limb. What he has been
3 turned around into claiming is that he can, by
4 looking at whatever he was looking at, the
5 evidence that she is provided, that he knows what
6 some individual, single individual's perceptions
7 were 45 years ago on some statements he has seen
8 and I just deeply feel that you cannot do that.
9 Not any given individual. We may be able to talk
10 about a group of individuals. We may be able to
11 say something about a class of individuals but to
12 make any kind of claims about what a single
13 individual thought, perceived, saw 45 years
14 earlier, the poor guy is out on a limb. Whoever
15 asked the questions hung him there.

16 Q. Regardless of what information he had
17 available, sir?

18 A. I don't know what information he had
19 available. On the other hand, I just can't
20 imagine he could have sufficient information
21 available to have made these claims.

22 Q. Mrs. Cipollone's deposition would not
23 help him in this regard?

24 MR. BLEAKLEY: Objection to the form
25 of the question.

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Kassarjian - direct

1 A. I've not read Mrs. Cipollone's deposition.
2 However, I can't imagine that a deposition, when
3 an individual answers those questions and only
4 those questions that a hostile questioner is
5 asking is the kind of information that would give
6 you enough richness to answer this question about
7 how a single individual 45 years before perceived
8 an ad.

9 Q. Why do you say that, sir?

10 MR. BLEAKLEY: Objection to the form
11 of the question.

12 A. Because that's what I believe.

13 Q. Based upon what?

14 A. Based upon my entire knowledge of what we
15 know about individuals and consumer behavior and
16 psychology.

17 Q. What do you know about the proceeding
18 with regard to Rose Cipollone's deposition?

19 MR. BLEAKLEY: Objection to the form
20 of the question.

21 A. I know nothing about Rose Cipollone. In
22 fact, I didn't even know it was pronounced that
23 way. I thought it was Rose-Sipollone (phonetic)
24 so I know nothing about her deposition.

25 Q. What do you know about Rose Cipollone?

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Kassarjian - direct

1 A. Nothing. She is some lady that's suing
2 somebody.

3 Q. What do you know about the information
4 that Joel Cohen had with regard to Rose Cipollone?

5 A. I know, don't ask how, but I know he had her
6 deposition. I believe, based on the statements
7 that I remember from his deposition, that's all he
8 knew about Rose Cipollone.

9 Q. What other information did Joel Cohen
10 had when he concluded that he could testify with
11 regard to what Rose Cipollone's likely perceptions
12 were in the 1940s?

13 MR. BLEAKLEY: Objection to the form
14 of the question.

15 A. I have no idea what he had. I believe that
16 he only had her deposition but I know nothing
17 else.

18 Q. It's your testimony that based upon
19 that, he could not conclude what her likely
20 perceptions were in the 1940s. Is that right?

21 A. No, it isn't.

22 Q. What is your testimony?

23 A. My testimony is that I cannot imagine what
24 information he could possibly have to allow him to
25 conclude that.

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Kassarjian - direct

1 Q. Is it your testimony that there is no
2 way for us to determine what Rose Cipollone
3 perceived in the 1940s?

4 MR. BLEAKLEY: Objection to the form
5 of the question.

6 A. There's no reliable or valid way that I know
7 of.

8 Q. Is there any way to determine what
9 Rose Cipollone's perceptions were in the 1950s?

10 MR. BLEAKLEY: Objection to the form
11 of the question.

12 A. There's no valid way that I can think of.

13 Q. Is there any way to determine what
14 Rose Cipollone's perceptions were in the 1960s?

15 MR. BLEAKLEY: Objection to the form
16 of the question.

17 A. No. It's still too long ago.

18 Q. Is there any way for us to determine
19 the perceptions of Rose Cipollone in the 1970s?

20 MR. BLEAKLEY: Objection to the form
21 of the question.

22 A. No.

23 Q. Is there any way for us to determine
24 what Rose Cipollone's perceptions were in the
25 1980s?

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Kassarjian - direct

1 MR. BLEAKLEY: Objection to the form
2 of the question.

3 A. If it's in the very recent past, perhaps,
4 just perhaps, by long-depth interviewing and other
5 psychological and projective techniques, perhaps
6 it's possible to get an inkling of what she was
7 perceiving in the recent past but in the long way
8 past, no way, Jose.

9 Q. When you say perceptions, did you mean
10 to include here beliefs?

11 A. Anything you want to include, any
12 psychological factors you want to include,
13 beliefs, perceptions, values.

14 Q. Attitudes?

15 A. Attitudes, yes.

16 Q. Knowledge?

17 MR. BLEAKLEY: Objection to the form
18 of the question.

19 A. I'm willing to throw that in except that
20 I've got this distinct feeling you are sucking me
21 into a trap so I shall wiggle a little bit.

22 Q. You do whatever you think is
23 necessary, sir. I'm not trying to put you into a
24 trap. I'm trying to find out what the truth is.

25 A. Knowledge also.

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Kassarjian - direct

1 Q. Page 157, we don't have any notes on
2 there but we do have underlining.

3 A. Yes. That's a bad habit I have. I read
4 with my pencil and I write comments and I
5 underline things. Especially if I didn't
6 understand a sentence, I'll go back and word by
7 word underline as I'm trying to understand it.
8 That's all it means.

9 Q. Do you have any comments with regard
10 to Dr. Cohen's testimony which appears on page
11 157?

12 MR. BLEAKLEY: Objection to the form
13 of the question.

14 A. Not that I can remember.

15 Q. Page 158.

16 A. My comments are, "Okay-perceptions-recall
17 and Pollay-not enough. Implies advertising
18 carries the weight of information environment.
19 Going too far."

20 Let me see what this is about.
21 (Examining document.) He is talking about
22 something about recall here. My comment is that
23 he is implying somewhere that advertising is
24 carrying the weight, the entire weight of the
25 information environment, what I'm calling the

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Kassarjian - direct

1 zeitgeist, the times, the knowledge that's out
2 there and the information that's out in the real
3 world and the weight of that is being carried by
4 advertising and I just think that's gone a little
5 bit too far. That's all.

6 Q. What does the okay refer to?

7 A. Okay, that's fine. Let's see. (Examining
8 document.) There's a statement here that says, "I
9 feel it's appropriate to look not only at what
10 Rosa Cipollone recollects but also at the content
11 of advertising of the period to see if her
12 recollections and the content are consistent." So
13 I said okay, look at them.

14 Q. Is that accepted scientific research
15 in the area of consumer behavior?

16 MR. BLEAKLEY: Objection to the form
17 of the question.

18 A. To see if a person's recollections of
19 something and what was really out there are
20 consistent, I don't know of any studies that do
21 those kinds of things outside of some legal trial
22 somewhere. This is not a burning issue in the
23 world as to whether a person's recollection of
24 advertising forty years ago is exactly the same as
25 what was really out there forty years ago. We

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Kassarjian - direct

1 know that there's selected perception and
2 selective perception. We don't have to prove
3 that.

4 Q. How do you know that?

5 MR. BLEAKLEY: Objection to the form
6 of the question.

7 A. There have been too many studies in the
8 literature to show that.

9 Q. Selected recall with regard to
10 advertising or with information generally?

11 MR. BLEAKLEY: Objection to the form
12 of the question.

13 A. All information, all perception.

14 Q. Page 162.

15 A. I read these things and I write myself
16 little nasty notes and then later -- I said he is
17 "Bluffing, evidence of selective perception," but
18 who is bluffing, the questioner or the answerer.
19 I wish I would be a little more polite when I
20 write comments down. Whatever was being talked
21 about. I just thought that either the questioner
22 or the answerer was bluffing here and it was just
23 a comment to myself that they are faking each
24 other out.

25 Q. You don't know whether it was the

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Kassarjian - direct

1 questioner or the respondent?

2 A. No, I don't know what it was about.

3 Q. Page 191.

4 A. This merely says, this page is nothing
5 except this was the beginning of a new day of
6 deposition and so I left this page in there just
7 to key me off that this was now nine o'clock in
8 the morning and not five o'clock at night.

9 Q. Next page, 192.

10 A. The comment is, "People hold a particular
11 view about pot. No advertising." The only point
12 I'm trying to make here is that Joel somewhere
13 said that the view people have about cigarettes
14 comes from advertising, that that's the prime
15 cause of their view about cigarettes. And I just
16 thought of an exception, that people have views
17 about marijuana and there's no advertising at all,
18 that giving advertising all that credit is too
19 much.

20 Q. Page 228.

21 A. Comment, "Possibly had some
22 effect--considerable rather strong. We don't
23 know. Simply DK," which stands for don't know,
24 "simply don't know." The statement is, "I think
25 to a considerable degree" -- let me start

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Kassarjian - direct

1 again. "As one example, the growing acceptability
2 of sucking by women is, I think, to a considerable
3 degree due to the advertising effort directed
4 toward making the product more acceptable for
5 women." My comment was maybe, just maybe it has a
6 small effect but to call it a considerable degree
7 is much too strong. We don't know. We just
8 simply don't know. However, my own belief is that
9 it is just a small part of the times and the era.

10 Q. What research do you base your own
11 belief on, sir?

12 A. I actually don't need to. It's 25 years of
13 research is your answer but I don't need to do
14 that because on page 229, Cohen starts a long
15 discussion about all of the various factors that
16 go into people smoking, not smoking, people having
17 beliefs and so on. I did not write these down.
18 What I did was I wrote down the page numbers that
19 he talks about each of the various important
20 factors that go into smoking, information
21 environment and so on. So on page 230, he talks
22 about psychosocial factors. 231 he talks about
23 physiological responses and physiological
24 responses to habit and nicotine and so on, I
25 guess. Page 234, he talks about the social

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Kassarjian - direct

1 pressures towards soaking in the information
2 environment. 234, he also talks about the impact
3 of the simple information environment. 234 he
4 talks about reference groups and the impact that
5 reference groups have on an individual's belief
6 system and his behavior. 235 he talks about the
7 importance of face-to-face peer groups and their
8 impact on soaking, consumer behavior. 235 again
9 he talks about personality and motivation and 235
10 he talks about communication and so what he has
11 done here is presented a little simple model of
12 all of the things that go into this information
13 environment. You'll notice that communication is
14 just one small part of that and one small part of
15 communication is advertising so that is the answer
16 to your question. I agree with Joel and it also
17 answers whatever your question was.

18 Q. Page 242.

19 A. The comment is "Exaggeration" underlined and
20 then the words "may have." The comment, "Social
21 sciences that leads to the inescapable conclusion
22 that advertising is likely to have a significant
23 impact on people's behavior, particularly
24 advertising of the magnitude represented in the
25 cigarette marketing and advertising," I think

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Kassarjian - direct

1 that's an exaggeration. Inescapable conclusion?
2 Whew. Had he said cigarette leads to the
3 inescapable conclusion that cigarette advertising
4 may have -- he uses strong words but this is one
5 smart fellow. I love the guy. He says is likely
6 to have. Better yet he had said may have, he
7 would have been cleaner.

8 Q. You would have agreed with the
9 statement if it was may have?

10 MR. PARRISH: Objection to the form of
11 the question.

12 A. Inescapable conclusion that it may have?
13 How can you disagree with inescapably may have?
14 Do you see what it's saying? It's cancelling each
15 other out.

16 Q. Would you agree that that cigarette
17 advertising may have had a significant impact on
18 people's behavior?

19 MR. BLEAKLEY: Objection to the form
20 of the question.

21 A. I can't disagree. It may have had. It may
22 not have had. That's what you've asked and I'm
23 saying I didn't, it may or may not have had.

24 Q. How do we determine whether or not it
25 may or may not have had an effect on people's

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Kassarjian - direct

1 behavior?

2 MR. BLEAKLEY: Objection to the form
3 of the question.

4 A. My opinion is that if it has had any effect
5 at all, it's a very small vector into the actual
6 affect. There are many things that go into the
7 affect, just as Joel said three pages before. One
8 of these is communication and a small part of
9 communication is advertising. That I'll agree
10 to. How we convert that to the sentence may or
11 may not have had effects, do what you want with
12 it.

13 Q. Can these various elements or these
14 various vectors have different degrees of effect
15 on different consumers?

16 MR. BLEAKLEY: Objection to the form
17 of the question.

18 A. Possibly.

19 Q. How do you know whether or not one of
20 these vectors has more effect and more effect on
21 one consumer as opposed to another consumer?

22 MR. FARRISH: Object to the form of
23 the question.

24 A. Consumer behavior does not study the
25 individual consumer. What we talk about is groups

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Kassarjian - direct

1 of consumers. We are interested in mass
2 behavior. These differences between individuals
3 and there are differences, individual differences,
4 almost off of our research relegates to the jargon
5 word called error term. You try to reduce that
6 error term statistically and when you are testing
7 significance, you try to wash it out so we are not
8 really interested particularly in the individual
9 consumer but in classes of consumers and typically
10 in the field, the individual differences are
11 relegated to error term.

12 Q. There's a comment on the top of page
13 243.

14 A. That follows what we were just talking
15 about. The statement is, "But so do other
16 people." Advertising is likely to have a
17 significant impact on people's behavior is Joel's
18 comment and my comment to that is but other people
19 also have a significant impact on people's
20 behavior. That's all.

21 Q. Continue with your comments.

22 A. Then I have written, "Brand switching is
23 critical." What Joel has said here is that it's
24 preposterous to believe that cigarette companies
25 would spend up to \$2 billion on advertising if

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Kassarjian - direct

1 they expected it not to have an impact on people's
2 smoking behavior. That is truly a preposterous
3 idea, Joel Cohen says.

4 I think he missed the point. Almost
5 all of this \$2 billion in advertising is to get
6 consumers who are smoking to switch. I don't have
7 the actual figures but I know that if you can get,
8 especially at that time, change, consumer
9 preferences and market share by one percent, every
10 one percent change in market share of a company
11 could mean millions and millions of dollars of
12 profit and so for a company to spend millions to
13 get brand share switching, brand switching, just
14 one percent, two percent would mean millions of
15 dollars of profits after that advertising cost so
16 this enormous advertising that was done at the
17 time was primarily aimed at brand switching.

18 Now, some of it may have acted to
19 perhaps bring a few people into the market. That
20 isn't the point I'm getting at. The point is that
21 the reason they spent the \$2 billion wasn't to
22 suck new people into the market. That would have
23 been a waste of money. The purpose of it was to
24 switch brand shares by one, two, three percent
25 because millions were involved.

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Kassarjian - direct

1 Q. What facts do you base your statement
2 on that the purpose of these \$2 billion in
3 advertising was for brand switching?

4 MR. PARRISH: Object to the form of
5 the question.

6 A. That's my belief of what that advertising is
7 about.

8 Q. What do you base that on?

9 A. 25 years of experience in the field.

10 Q. What facts?

11 MR. BLEAKLEY: Objection to the form
12 of the question.

13 Q. Facts, not your experience. What
14 facts?

15 MR. BLEAKLEY: Objection to the form
16 of the question.

17 Q. Concrete facts.

18 A. I have no concrete study if that's what you
19 are asking.

20 Q. Concrete facts, did you read a
21 document that said that?

22 A. No, I did not.

23 Q. Let's go down the page.

24 A. The next word is "Okay." I'm agreeing with
25 something. The statement is that, "Cigarette

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Kassarjian - direct

1 companies have engaged in a direct attempt to
2 construct brands that would be responsive to the
3 needs and wants of females." Fine. Okay, Marlboro
4 came out as a female cigarette, Eve as a female
5 cigarette. There's one other one, "You've come a
6 long way, Baby." I've often wondered what a
7 female and a male cigarette is but okay so I'm
8 agreeing. Advertising people have segmented the
9 market. So some go after the machos, some go
10 after the sweet, delicate women and others go
11 after people who prefer to walk a mile.

12 Q. The comments on the bottom, sir?

13 A. "Not so sure here." My handwriting is,
14 "Not so sure here. True for brand switching."
15 Now, what does it say. (Examining document.)
16 What he is saying is that cigarette companies
17 develop cigarettes to appeal to the feminine
18 market and to make it appear much more socially
19 acceptable and attractive for women to smoke and
20 I'm saying you've overstepped the bounds again. I
21 don't know if cigarette smoking can make anything
22 appear more attractive or whatever.

23 Q. Page 250 is the next page.

24 A. "Exaggeration." The statement is
25 "... without any question that cigarette

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Kassarjian - direct

1 advertising is highly likely to create change in a
2 person's beliefs and attitudes likely to be of
3 significant effect on people's purchasing
4 behavior." I'm sorry, Joel, I cannot agree with
5 you on this.

6 Q. Page 276.

7 A. Bottom of the page I've written, "Also that
8 product is risky." The question, I don't know
9 what the question was. The answer was, Joel
10 stated, "One of the things that advertising and
11 marketing of very low tar filter cigarettes may
12 have done is to communicate, at least indirectly,
13 that there is a safe level of smoking."

14 My comment to that is what those kind
15 of advertising have done is to remind people that
16 the product is risky. This is what I would like
17 to call self-destruct type advertising, where you
18 tell people our product is not as bad as our
19 competitor's product. What that is really saying
20 is we are all pretty bad but ours is not as bad
21 and where Joel feels that, he feels that low tar
22 filter cigarette advertising is to communicate a
23 safe level, my feeling on this is that what those
24 ads were communicating is there's a safe level
25 necessarily but that the damn product is

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Kassarjian - direct

1 dangerous.

2 Q. What did you base that on? Did you
3 conduct any surveys?

4 A. I'm basing it on exactly what Joel Cohen
5 based it on in his statement, which is his 25
6 years of experience in the field. We are both
7 basing it on the same data.

8 Q. Page 278.

9 A. "Reminds people it is dangerous." This
10 continues along with the previous comment that the
11 advertising of these low tar cigarettes and
12 mentioning of the tar and nicotine content of
13 cigarettes just keeps reminding people this is a
14 dangerous product. I think that those ads have
15 that very specific message in them that the
16 product is dangerous.

17 Q. There's underlining on this page. Is
18 that of any significance?

19 A. Almost always means I couldn't understand
20 the long paragraph that Joel talks in. No, I just
21 went very slowly and tried to understand what the
22 statement was.

23 Q. Page 279.

24 A. My statement is, "Too specific. Not how
25 average consumer behaves." I'm reacting to, "What

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Kassarjian - direct

1 I guess is called a dose-response function,
2 meaning the relationship between the amount of
3 cigarettes smoked and the likelihood of particular
4 problems arising. That would help her and people
5 like her decide on the degree of risk they were
6 subjecting themselves to by a particular amount of
7 smoking."

8 If I understand this, if I remember it
9 correctly, Joel is asking for more information on
10 how serious and what health risks there are
11 related to the amount you smoke, so if you smoke
12 only three or four cigarettes a day, how terrible
13 is that. He is asking for that kind of
14 information because then the consumer could take
15 the risks and could take the negative parts of
16 smoking, the risks, and the positive parts of
17 smoking, the high you get or whatever people who
18 smoke say they got and balance them and come to a
19 conclusion and my feeling is that Mrs. Cohen or
20 other people do not make these kind of decisions.
21 I know Joan fairly well, quite well, and she
22 smokes cigarettes once in a while and she doesn't
23 go around saying negative 15 points, positive 15
24 points, therefore, I
25 shall . . . We don't do that.

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Kassarjian - direct

1 Q. Page 284.

2 A. My comment, the question, "too specific.
3 Talk molar but answer molecular." That's all
4 jargon, folks. That's all plain undiluted argot
5 and jargon. Molar is a technical term meaning the
6 big picture, the molar view of things. Molecular
7 is jargon meaning the tiny, teeny weeny picture.
8 What I'm saying here is that Joel is being much
9 too specific. I know what he believes about these
10 kinds of things and he talks about these molar big
11 pictures and narrows it down to a tiny little
12 thing and focuses in on that and that's all I mean
13 there.

14 Q. You don't think that that can be done
15 in the area of consumer behavior?

16 A. You can do your processing, your analysis at
17 the molar level or at the molecular level. You
18 prefer the molar although some answers come from
19 the teensy weensy atomistic level.

20 Q. Why do you say it's too specific, sir?

21 A. I don't know. Wait a minute. Let me read
22 this. (Examining document.) I'm having a
23 terrible time understanding what this page says.
24 It's these long convoluted sentences and I don't
25 know what what I was thinking about. I haven't

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Kassarjian - direct

1 got the vaguest idea of what the page said.

2 Q. Page 288?

3 A. Question mark arrow, "Is there a survey?

4 I'm not well informed," arrow, "Narrow answer to

5 Cohen." Let's see. (Examining document.)

6 Apparently there was about four or five pages of

7 argument between Mr. Edell and Mr. Bleakley which

8 I just threw out because I wasn't about to carry

9 it. I lost the question. I simply don't know

10 what the question is now. That was several pages

11 before and like a jerk, I threw it out but the

12 answer is, "Let me illustrate the point." Somehow

13 he is talking about a survey or doing a survey and

14 asking people if it's hazardous to their health

15 and I was asking myself is there such a survey, I

16 don't know anything about it, I'm not well

17 informed of these kinds of surveys and that's in

18 there so I'm asking myself a question is there a

19 survey or is it a narrow answer that Cohen is

20 trying to give about something that he knows or is

21 it a broader question but other than that, I don't

22 know.

23 Q. What surveys are you not well informed

24 of, sir?

25 MR. PARRISH: Object to the form of

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Kassarjian - direct

1 the question.

2 A. Let me illustrate the point. I think if you
3 carry out a survey and you ask people is smoking
4 hazardous to your health or you ask people does
5 cigarette smoking cause cancer and then it
6 continues, I don't know if this is a hypothetical
7 answer or whether he is talking about a survey
8 that really exists and that's what my comment is.
9 Is there such a survey, is it a real thing you're
10 talking about or is it hypothetical like you are
11 making it sound. That's what that comment on the
12 page is about.

13 Q. You don't know of any such survey. Is
14 that what you are saying?

15 MR. BLEAKLEY: Objection to the form
16 of the question.

17 A. I don't know of any such survey.

18 Q. Now you know why we have four pages of
19 colloquy. Page 290.

20 A. I don't know what that is but I do remember
21 that somewhere in the Cohen thing, you are not
22 supposed to do that.

23 Q. Colloquy? You are right. Page 290.

24 A. My comment, "Smoker do not do this type of
25 analysis. Only information processing researchers

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Kassarjian - direct

1 do such things." Answer: "My testimony is that
2 people think about positive and negative reasons
3 for engaging in a behavior as one of the things
4 they do in leading up to the act of continuing or
5 ceasing a behavior. To the extent that people
6 have a better understanding of not only potential
7 and, hence, not necessarily immediate or
8 personally relevant outcomes but of more immediate
9 effects, you increase the likelihood that they
10 would make a decision either not to start smoking
11 in the first place or to discontinue smoking."

12 What Joel is saying here is that if people
13 have enough information, they will do an analysis,
14 I don't know what it's called, a cost benefit
15 analysis, a positive-negative analysis or
16 something and make a decision if they have enough
17 information. I'm saying the average consumer does
18 not behave that way. I appreciate that
19 information processing models claim they behave
20 that way but I claim they do not. People make
21 decisions. Period. Do it and then find the
22 reason why.

23 Q. How do they make decisions?

24 A. They make them.

25 Q. Based on what?

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Kassarjian - direct

1 MR. BLEAKLEY: Objection to the form
2 of the question.

3 A. Based on whatever they've got. People do
4 not sit down. I'm willing to bet that you do not
5 sit down, even when you buy a major thing like a
6 car, and make a big long list that says good
7 things about the Ford, bad things about the Ford.
8 I'm willing to bet that you don't say this is
9 worth three points and this is worth four points
10 and I totaled it up and get 82 here and 78 here
11 and you go out and buy this car because it's a
12 four-point difference. I don't believe you buy a
13 car that way.

14 Q. I understand that. But let me ask you
15 this. Do you think that people make a decision
16 looking at some of the pros and some of the cons
17 of that decision?

18 MR. BLEAKLEY: Objection to the form
19 of the question.

20 A. They make decisions. Some make them one
21 way, some make them another way but they make
22 decisions. All we know is that they do not go
23 through this kind of analysis.

24 Q. You mean actually put it down on a
25 piece of paper or going through the pros and cons

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Kassarjian - direct

1 in their mind?

2 A. I don't care whether they write it down or
3 not. That's not the important point. The
4 important point is, positive and negative reasons
5 for engaging in a behavior, I don't think that a
6 person sits down who doesn't smoke and decides on
7 all positive and negative reasons to start smoking
8 and smokes. I don't believe a person sits down
9 who is a smoker and says on the next cigarette,
10 let's see now, shall I smoke this cigarette, let
11 me think of all the positive reasons and let me
12 think of all the negative reasons and then based
13 on those numbers, lights the cigarette or doesn't.

14 Q. What do they take into consideration?

15 MR. PARRISH: Object to the form of
16 the question.

17 A. Whatever but they don't go through that
18 analysis.

19 Q. How do you know that?

20 A. Based on my 25 years of experience in the
21 field.

22 Q. You don't know what process they go
23 through but you are sure that they don't go
24 through a process of weighing the pros and the
25 cons. Is that right?

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Kassarjian - direct

1 MR. BLEAKLEY: Objection to the form
2 of the question.

3 A. Can you tell me an instance, except maybe
4 the purchase of a home, where you did that? Do
5 you do that when you think about crossing a
6 street? I wonder if I should cross. The pro is I
7 want to get across the street but the con is that
8 I could get killed by a taxicab. That's not
9 nice. But if I get hit by the taxicab, I might
10 sue and make a mint but I might break a leg but
11 that isn't nice; therefore, I shall cross. Of
12 course not. You cross the street. That's all
13 I'll say. You don't go through this process on
14 every decision.

15 Q. For which decisions does one go
16 through a weighing of the pros and the cons?

17 MR. BLEAKLEY: Objection to the form
18 of the question.

19 A. Maybe none. If any at all, only very major
20 decisions like switching a job to another city,
21 buying a big home, something very important and
22 very major.

23 Q. Are your thoughts on the subject
24 accepted by other colleagues in your field?

25 MR. BLEAKLEY: Objection to the form

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Kassarjian - direct

1 of the question.

2 A. I believe so.

3 Q. By whom?

4 MR. BLEAKLEY: Objection to the form
5 of the question.

6 A. By whom?

7 Q. Yes. Are there colleagues in the
8 field of consumer behavior who have written on
9 this subject in which they agree with your
10 comments?

11 A. I would suggest you take a look at any of
12 the textbooks and then try to decide whether I'm
13 out in left field or not.

14 Q. Direct me to one textbook that would
15 substantiate what you just said.

16 A. No. I will direct you to textbooks that
17 will talk about consumer behavior but I doubt if
18 there's a single textbook that talks about the
19 decision-making process in crossing the street.

20 Q. The decision-making process period,
21 sir. You are the one that used the example of
22 crossing the street, not me.

23 MR. BLEAKLEY: Objection to the form
24 of the question.

25 A. Almost any textbook will have that kind of

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Kassarjian - direct

1 information. You want me to list a few?

2 Q. Yes.

3 A. William Wilke called Consumer Behavior.

4 Q. Is that a good book?

5 A. Good book.

6 Q. Any other books?

7 A. Thomas Robertson entitled Consumer Behavior,
8 good book.

9 Q. Page 301.

10 A. My comment, "Giving impression there is a
11 logical decision here. Do not behave like a
12 computer. Make decisions period - on next
13 cigarette - until time to quit when the negatives
14 outdo the positives." It's exactly the same
15 comments, exactly the same topic. We are talking
16 about how people make decisions, whether they
17 behave like computer and I'm saying they do not.
18 They make the decision and then if you push them
19 for reasons, they concoct reasons or give you
20 reasons but the decision is made. It's a gestalt
21 decision that's made at once.

22 Q. When you say a gestalt decision, what
23 do you mean?

24 A. All the little vectors coming into it and
25 mixing them up and that's what causes the

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Kassarjian - direct

1 decision.

2 Q. When you say all the vectors, you are
3 talking about all the information that a person is
4 exposed to. Correct?

5 A. Not exposed to. All the information they
6 choose to use or not use.

7 Q. How do you know what information a
8 consumer chooses to use or not use?

9 A. That's an individual decision. How do we
10 know? That's a research study I suppose that one
11 could conduct.

12 Q. Have you ever done such research?

13 A. No.

14 Q. Has anyone?

15 A. I don't know.

16 Q. Page 310.

17 A. Poor Joel. He has gotten trapped into
18 claiming he could predict the behavior of a single
19 individual and my comment is that, "In general,"
20 you might be able to explain why people behave as
21 they do, "but you can't ever do that for the
22 specific person. That's all.

23 Q. Page 313.

24 A. My words on top, "Don't and can't," whatever
25 that is. Later I say, "Exaggeration, don't think

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Kassarjian - direct

1 the tools for a specific person, don't know all
2 the available vectors." It's the same comment.
3 The issue is whether our science is so advanced
4 that we can predict what a single individual is
5 going to do and I just feel that no, we cannot, we
6 do not and that this was a bit of a exaggeration,
7 kind of an advocacy exaggeration.

8 Q. As opposed to predicting what a
9 consumer will do in the future, is your research
10 in consumer behavior such that you can, by looking
11 back at a person's life, draw conclusions as to
12 what they would have done?

13 MR. BLEAKLEY: Objection to the form
14 of the question.

15 A. Not for the single individual. We can talk,
16 after the behavior, the act happened, then we try
17 to talk about why people in general might behave
18 that way but I think that any time you talk about
19 the single individual, you get into trouble.

20 Can I give an example? Suppose we are
21 looking at the behavior of individuals leaving a
22 football game. The football game just ends. We
23 are in a helicopter watching. We predict that
24 everyone will walk away from the arena toward the
25 parking lot and sure enough, we photograph and

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Kassarjian - direct

1 more likely than not, overwhelming numbers of
2 people are walking to the parking lot. Theories
3 are proven. After games, people go to parking
4 lot.

5 But when we look a little closer,
6 there's occasionally a person who, rather than
7 walking from the arena to the parking lot, is
8 walking from the parking lot to the arena.
9 There's no way we can predict that unless we knew
10 everything. They may have forgotten their
11 umbrella, they may have gotten the day wrong and
12 they think there's some other game that's going to
13 go on the next time. They may be so damn drunk
14 they don't know what direction they are going. We
15 don't know.

16 Unless you take that individual and
17 subject him to the most thorough examination,
18 which we just can't do, we don't have the tools to
19 do it, we can't make a prediction on the
20 individual. We can talk until we are blue in the
21 face that people will leave the arena and go to
22 the car but we can't predict on the person who
23 will go the other way.

24 Q. We can try to assess the probability
25 that a person will walk to the parking lot, can't

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Kassarjian - direct

1 we?

2 MR. BLEAKLEY: Objection to the form
3 of the question.

4 A. When you talk about probabilities, you are
5 not talking about the probability of a single
6 individual. You have to be careful. The
7 probability data comes from the aggregate.

8 Q. I understand that. Can you establish
9 the probability that an individual will walk to
10 the parking lot after the game?

11 MR. BLEAKLEY: Objection to the form
12 of the question.

13 A. Can I actually put a number on it? Is that
14 what you are asking?

15 Q. Probability, more probably than not
16 the person will walk to the parking lot. Can you
17 draw that conclusion from the example that you
18 gave us?

19 A. I would make a prediction that people should
20 be walking to the parking lot, yes.

21 Q. And more likely than that --

22 A. I don't want to use the words. Does that
23 mean 51 percent or does it mean 82 percent?

24 Q. 51 percent, more probably than not.

25 A. I won't draw that conclusion. If you want

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Kassarjian - direct

1 to say will most likely walk, I'll accept it. The
2 minute you talk about numbers like 51 percent or
3 17 percent, why is it 51 and not 32 percent or 97
4 percent?

5 Q. You are willing to say that most
6 likely someone leaving the game will walk to the
7 parking lot, however. Correct?

8 MR. BLEAKLEY: Objection to the form
9 of the question.

10 A. Yes.

11 Q. What do you base that on?

12 A. 25 years of experience in the field. Also
13 there's a lot of literature on this by the way.

14 Q. What literature is that, sir?

15 A. Just a whole lot of literature in the
16 modeling literature, stochastic modeling of
17 aggregate behavior. We are talking aggregate
18 behavior now. The whole area of mathematical
19 models in consumer behavior is in this ballpark.

20 Q. 314.

21 A. My comment, "Don't know how can be done for
22 single individual. Perhaps clinical psychology
23 can make a hypothesis but that is all." Later I
24 say, "No way to measure extent of influence.
25 Total information environment, totality of facts

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Kassarjian - direct

1 has affect. What part is advertising and
2 promotion. Not measurable." (Examining
3 document.) What Joel is saying is that the
4 principles used to evaluate the impact of
5 advertising on aggregates, on bunches of people
6 can be used to evaluate the impact of advertising
7 on any given person.

8 Q. You disagree with that?

9 A. I disagree with that.

10 Q. Is there any literature that supports
11 that statement?

12 A. I have as much literature that supports that
13 statement as Joel has that supports the opposite
14 statement. Neither of us have any in other words.

15 Q. Let's continue with the comments.

16 A. What I'm saying here is that maybe, just
17 maybe an individual trained in clinical psychology
18 who tests the patient on the couch and goes
19 through some kind of an analysis here can make
20 some hypotheses. Not facts but some hypotheses,
21 assumptions, statements about how a single
22 individual might react, Maybe he can make
23 hypotheses but in consumer behavior with the tools
24 we've got, I don't believe that's possible. I
25 think there's no way to measure the extent of

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Kassarjian - direct

1 influence that advertising has on a single
2 individual. We don't do that. We never do that.
3 When we talk of effects of advertising, we are not
4 talking about effects of advertising on Mrs.
5 Jones. We are talking of about effects of
6 advertising on women, on yuppies but never Mrs.
7 Jones. That's all.

8 Q. Page 316.

9 A. My comment, "Cannot know specific body.
10 Only rough approximation of what was available,
11 eg., Follay study. DK," that is, don't know,
12 "what she read or was exposed to. Perhaps only
13 movie glamour magazines."

14 Now let's see. (Examining document.)
15 Poor Joel, he makes the claim in here that he
16 knows what specific body of advertising Mrs.
17 Cipollone was exposed to and he knows because she
18 says so somewhere so somebody told him and makes
19 statements that he knew what specific body of
20 advertising she was exposed to 45 years earlier or
21 whatever earlier and I feel there's no way of
22 knowing that. There's no way that Mrs. Cipollone
23 could have known what she was exposed to or could
24 possibly remember 45 years ago. I think even very
25 drastic techniques, interviewing techniques would

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Kassarjian - direct

1 not be able to draw that out. There is no way of
2 knowing what she was exposed to at the time.

3 Q. Even in a hostile deposition
4 proceeding?

5 A. Even that. I was thinking more and then I
6 figured don't open that can of worms of drug
7 interviewing with --

8 MR. BLEAKLEY: McDonald's worms?

9 THE WITNESS: Yes.

10 Q. Page 317.

11 A. Especially by the way hostile deposition
12 proceedings. "Doubt that she can remember.
13 (Perhaps prompted) This is questionable." Rose
14 Cipollone, according to this deposition, I got the
15 impression Rose Cipollone showed some ads or was
16 shown some ads and she said she remembered seeing
17 those ads and then Joel Cohen said having seen
18 those ads, da da da da da da.

19 What I'm saying is I have a great deal
20 of difficulty believing that any individual can
21 remember the totality of the ads they were exposed
22 to 45 years earlier or 40 years earlier or 20
23 years earlier. She may remember an occasional
24 ad. More likely she was shown some ads and then
25 was told she remembered them or thought she

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Kassarjian - direct

1 remembered them and then that became fact. I know
2 myself deep in my gut I believe I remember seeing
3 the original Ronald Reagan ad pushing Chesterfield
4 cigarettes I think it was but I don't know if I
5 really saw it or I've seen it since several times
6 and think I saw it. A person cannot give that
7 kind of a sure statement of what they did dozens
8 of years earlier.

9 Q. Is it your testimony that Rose
10 Cipollone could not accurately state that she saw
11 an ad twenty years ago or thirty years ago?

12 MR. BLEAKLEY: Objection to the form
13 of the question.

14 A. I won't argue about one ad.

15 Q. At what point in time would you start
16 arguing about her ability to recall specific ads?
17 Twenty, thirty, fifteen, five, six, one?

18 A. 24 hours.

19 Q. I'm sorry?

20 A. 24 hours.

21 Q. In other words, if she testified I
22 recall seeing a specific ad or ten specific ads 24
23 hours ago, you would put some credence in that?

24 A. No. Let me point out something. If I ask
25 you how many ads were you exposed to yesterday,

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Kassarjian - direct

1 yesterday, not 45 years ago, yesterday, you might
2 say newspapers, you listened to a bit of
3 television, maybe you had a radio on, you might
4 say 100, 200, 300. These studies have been done.
5 The average individual on an average day is
6 exposed to 2,000 ads. I defy you to remember more
7 than a hundred of those 2,000. That was
8 yesterday, not 45 years ago.

9 Q. That's what I'm trying to find out.
10 In your opinion how many ads could Rose Cipollone
11 be able to identify that she saw thirty or forty
12 years ago?

13 MR. BLEAKLEY: Objection to the form
14 of the question.

15 A. I don't have any idea. She will identify
16 some ads. I don't even know if that
17 identification is credible or not. I don't know
18 if she really saw them or thinks she saw them. I
19 feel there is no way to answer that question or to
20 test that question of what she was exposed to 45
21 years ago, 20 years ago, yesterday even.

22 Q. Do you believe that people can recall
23 advertising campaigns which occurred twenty,
24 thirty, forty years ago?

25 A. Perhaps.

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Kassarjian - direct

1 Q. Like Winston tastes good like a
2 cigarette should, LSMFT. You remember those,
3 don't you?

4 A. I also remember them because I use them in
5 my class all the time, I also remember a little
6 song for Pepsi-Cola. Do you want me to sing it to
7 you?

8 Q. No. Those are advertising campaigns
9 and themes. Correct, sir?

10 A. The reason I'm avoiding your answer is that
11 that's a very specific word to what a campaign
12 is. It's advertising jargon and I don't know
13 exactly what the word campaign means but if you
14 mean something like do you remember the jingle
15 Winston tastes good like a cigarette should, do
16 you remember Lucky Strike green went to war, that
17 kind of thing --

18 MR. BLEAKLEY: Yes.

19 THE WITNESS: Boy, you are old. That
20 was World War II ads, Lucky Strike green went to
21 war.

22 A. If you mean that, then if we can remember
23 that kind of meaningful phrase or jingle for a
24 long, long time and I've written to that effect.

25 Q. Can people remember a series of ads

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Kassarjian - direct

1 with similar themes for the same product?

2 MR. BLEAKLEY: Objection to the form
3 of the question.

4 A. I don't know what a series of ads are. Can
5 they remember individualized in a bunch?

6 Q. An ad campaign which they varied the
7 pictorial aspect of the advertisement only
8 slightly but the basic theme of the ad remained
9 the same.

10 A. Possibly. I suspect that people remember, I
11 would rather switch -- no, I got it wrong. I'd
12 rather switch than fight. I'd rather fight than
13 switch. I did a great job of remembering it.

14 Q. It was a little Freudian.

15 A. I would rather switch than fight. That kind
16 of thing can be remembered and we can vaguely
17 remember that there were several ads on that same
18 jingle or whatever that's called but beyond that,
19 I don't think so. Is that what a campaign means,
20 a whole series of ads using the same phrase?

21 Q. I never had that much familiarity with
22 the advertising that you probably have. Page 320.

23 A. "Can't know this" and then the word
24 exaggeration. Joel says that it is his position
25 that advertising is very important in creating a

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Kassarjian - direct

1 great deal of the social influence that existed at
2 the time which was transmitted in other ways to
3 Rose Cipollone. There's no way he can know how
4 important advertising was a bunch of years ago in
5 creating the social influence that Rose Cipollone
6 was exposed to, that is, the friends she had, the
7 neighbors she had. How can you probably know what
8 the influence of advertising was on that.

9 Q. Page 321.

10 A. "What about pot, cocaine, heroin?" He must
11 be saying, he is telling us how important
12 advertising is in taking up smoking and I just
13 commented to myself how do you explain people
14 smoking pot, snorting cocaine or shooting heroin
15 when there's no advertising at all.

16 Q. Do you think it would be more likely
17 if there was advertising of the volume similar to
18 cigarette advertising that more people would use
19 pot, cocaine and heroin?

20 MR. BLEAKLEY: Objection to the form
21 of the question.

22 A. I have no idea.

23 Q. Could you continue with your comments?

24 A. "No advertising. Can't know what would have
25 been. Advertising may have had some effect."

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Kassarjian - direct

1 Somebody asked poor Joel Cohen the same kind of
2 question you just asked me, if that and this and
3 this and that, then what. He said, "Is it your
4 opinion that it is more probably than not that
5 Rose Cipollone would not have begun smoking if
6 there had never been any advertising of
7 cigarettes?" And somebody objected to the form of
8 the question and then he answered it and my
9 reaction to it was that there's no way that he
10 could have known that. That's all.

11 Q. There's a question there. What does
12 that mean, your handwritten note? There is a yes
13 there, y-e-s.

14 A. Let's see.

15 Q. Right after you have the
16 underlining --

17 MR. BLEAKLEY: On 321.

18 A. It continues. Somehow I got the impression
19 that if he is saying that the huge numbers of
20 people she knew cut back to smoking would not have
21 an impact on her, I felt yes. I felt that other
22 people are a critical, an important factor in
23 smoking. Next page I say exaggeration but I don't
24 know what that was.

25 Q. 324.

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Kassarjian - direct

1 A. "Gross exaggeration." These are my own
2 words. I don't mean to impeach Cohen with any of
3 these phrases.

4 Q. Terms of endearment.

5 A. Terms of endearment, yes. I don't know if
6 you've talked to him but we are old friends. Did
7 I read what this said? It says, "Gross
8 exaggeration. Must have knowledge of entire
9 gestalt, times or information environment." The
10 question was, "In your opinion are you competent
11 to express an opinion concerning the behavior, the
12 conduct, the actions that a particular consumer is
13 going to take as a result of being exposed to
14 particular advertising," and he says yes. "Have
15 you ever done that before" and he says, "As I told
16 you in response to a related question earlier, the
17 unit of analysis and research carried out by
18 people like myself and in particular me as an
19 expert in consumer behavior is never the
20 individual from the standpoint of testing theories
21 and publishing papers in scholarly journals." I
22 said yes, of course." I agree. That's what I've
23 been saying. It's exactly what he says. Our
24 field is not the individual. That's the field of
25 clinical psychology.

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Kassarjian - direct

1 Q. Page 325.

2 A. I thought that Joel was trying to outwit the
3 lawyer here. Whatever it was, I just had this
4 kind of feeling, this bantering and each one was
5 playing games with the other.

6 Q. Not like this?

7 A. No, it wouldn't be like this at all. It's
8 just a comment to myself that he is trying to
9 outwit the lawyer. Then I said to myself that's a
10 mistake as if I would ever do anything like that.
11 Then later I have, "Okay, do it but reliability
12 and validity suffers. Small percentage of
13 variance can be accounted for."

14 Q. What are you referring to?

15 A. What he is saying is that in our field, we
16 do not study the individual but we study
17 aggregates, bunches. Then he is saying, however,
18 the same principles, in studying a bunch, can be
19 applied to studying the individual and, therefore,
20 I can make claims about individual behavior and
21 I'm saying go ahead, make all the claims you want
22 but the validity and the reliability of any claims
23 you make are going to suffer a great deal.

24 When you make claims about an
25 individual, there's a large error term, that is,

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Kassarjian - direct

1 you can only guess a little bit better than
2 chance. That's what I mean by only a small
3 percentage. Variance can be accounted for. You
4 can say anything you want but don't expect it to
5 be reliable, valid or credible.

6 Q. 331.

7 A. There's the third day. It's a note to
8 myself that we are starting over again. "Pointed
9 out that product not safe! Problems-did that
10 much." I haven't got the vaguest idea what that
11 means. (Examining document.) Something about the
12 risks of smoking and I guess I'm saying that if
13 something else, the advertising pointed out
14 problems but I don't know where my thoughts were
15 at the time.

16 Q. Page 334?

17 A. My comment, "True but that is not the
18 goal--seems to remind consumers at point of
19 consumption of health risks." His answer to a
20 question was, "As I look at that warning in
21 conjunction with the information available to
22 consumers and the ambiguity of that information,
23 my opinion is that it is not adequate to alert
24 consumers to the nature and severity of the risks
25 they incur in smoking cigarettes."

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Kassarjian - direct

1 If I remember correctly, this part of
2 the deposition is talking about the health warning
3 that's on the cigarette packages and on all
4 advertising and he is saying he does not feel that
5 that was adequate to alert consumers that this is
6 a dangerous product. He doesn't feel that health
7 warning was adequate and I said true, it may or
8 may not have been adequate but that was not the
9 goal. What it did do in my opinion, what that
10 health warning did do very well was remind
11 consumers at the point of consumption that there
12 is a health risk. It may not have been the best
13 possible warning but it was a good warning because
14 it reminded the consumer every time he reached for
15 the cigarette, every time he lit it, what stared
16 him in the face was that this is a risky product
17 and unlike most of the FTC and Joel, I think that
18 warning was a good warning.

19 Q. You didn't write here "True"?

20 A. "True but that is not the goal."

21 MR. EDLELL: Would you read back his
22 answer, please.

23 Q. I thought that you added another word
24 there when you gave us your answer.

25 (Answer read.)

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Kassarjian - direct

1 Q. Your comment wasn't true, that may or
2 may not have been adequate. Your comment was
3 simply true. Isn't that right, sir?

4 MR. BLEAKLEY: Objection to the form
5 of the question.

6 A. These are the notes I wrote down. Are you
7 asking me what I intended when I wrote it down or
8 are you asking me precisely what the words were I
9 wrote?

10 Q. The words that you wrote were, "True
11 but that is not the goal" and you were referencing
12 Dr. Cohen's opinion that the warning is not
13 adequate to alert consumers as to the nature and
14 severity of the risks they incur in smoking
15 cigarettes. Correct?

16 MR. BLEAKLEY: Objection to the form
17 of the question.

18 A. True. All that is saying is that cigarette
19 smoking is dangerous to your health and it isn't
20 listing all the things that could go wrong with
21 you. It's true that it's not listing everything.
22 I think it's fulfilling a very important function
23 personally but it's not listing all the possible
24 things that could go wrong with you.

25 Q. Are you aware of anybody else who

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Kassarjian - direct

1 agrees with you; sir?

2 MR. BLEAKLEY: Objection to the form
3 of the question.

4 A. I would guess half the field.

5 Q. Half the field in consumer behavior?

6 A. Yes.

7 Q. Page 373.

8 A. "Harold does not have evidence," Harold, ne,
9 "does not have evidence." However, doesn't have
10 evidence? I think I've written, "Harold does not
11 have evidence" and later, "No evidence for this
12 that I have seen." Further down, "Okay. Implies
13 she knew of the dangers of smoking and did not or
14 could not stop."

15 What is this about? (Examining
16 document.) Okay. Joel is saying here that Rose
17 Cipollone was in the category of people who would
18 be likely to switch to a safer cigarette and if
19 the Palladium cigarette in fact is a safer
20 cigarette, then people in that category would be
21 more likely than that to switch to it. He doesn't
22 have evidence for that claim. That's all I'm
23 saying.

24 Q. What did you mean by "Harold does not
25 have evidence"?

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Kassarjian - direct

1 A. I don't know. I don't know if that's
2 Harold, however, or what that word is. I don't
3 know. I can't read it. It doesn't make any
4 sense.

5 Q. Your comment on the bottom of the
6 page?

7 A. "Okay." He is saying that the Palladium
8 cigarettes were safer and that information was
9 conveyed to her and there were no other obstacles
10 in her way of purchasing Palladium cigarettes that
11 she might buy it and I said, "Okay" but it's
12 important on this word more likely than not, I
13 don't believe when that phrase is used it means a
14 percentage number like 51 percent or 26 percent or
15 39 percent. I don't believe that Cohen believes
16 or intended that to mean 51 percent or 19
17 percent. I think it's a turn of a phrase and so I
18 want to make that very point very clear. We are
19 not talking about a majority or 51 percent. I
20 don't think he is and I know I'm not.

21 Q. You are talking about less than 51
22 percent. Is that correct?

23 A. No.

24 Q. It could be more or less?

25 A. It could be more or less. We don't know.

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Kassarjian - direct

1 It's a turn of a phrase and it does not imply a
2 statistic.

3 Q. Page 378.

4 A. My comment, "For most products, consumer not
5 a computer. Makes a decision."

6 Q. Is it similar to your comments
7 previously?

8 A. The earlier comments.

9 Q. Page 402.

10 A. My comment, "Influence of the variables
11 other than advertising." This is very nice
12 because here I agree with Joel. He agrees with
13 me. On page 402, my comment states, "Influence of
14 the variables other than advertising." Joel Cohen
15 is talking about what it would take to get a new
16 cigarette accepted and he talks about free
17 publicity on the evening news, talk shows, noise
18 about the product, a stampede of consumers running
19 out to buy the product. Under those conditions,
20 the product could be successful and we agree.
21 Advertising, too, but in addition to advertising,
22 it's a lot more. Advertising alone is not enough.

23 Q. Page 415.

24 A. Just a circle. I don't know. I was just
25 kind of amazed, wondered who the hell was paying

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Kassarjian - direct

1 the bill.

2 Q. Me, too. Page 460.

3 A. "Crap." Oh, dear. Oh, this is where he
4 has gotten himself out on a limb. He talks about
5 a mutual colleague, Bart Weitz, and they play a
6 baseball player game and he predicted that Bart
7 Weitz would draft Manny Mota or something and the
8 question there, the question that the lawyer
9 stated was "Remarkable" and I thought boy, is that
10 sarcastic. Isn't it remarkable you could predict
11 in some game. That was all. I was just -- later
12 I say, "Yes! But that's a mouthful." He said,
13 "You need to understand the person's needs and
14 wants, something of their situation, something of
15 the assortment of options presented to them." How
16 do you predict? You need to understand all there
17 is about a person and my comment was, "Yes, but
18 that's a mouthful." If you know everything, you
19 can predict. Fine.

20 Q. Page 465.

21 A. Here I say, "Okay, got off the hook." Joel
22 had gotten himself way out on a limb and on this
23 page he wiggles right back off the limb and is
24 back on hard ground. That's all. Page 488 --

25 Q. And I have a blank page in here that

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Kassarjian - direct

1 has handwriting on it.

2 A. I have something on the back. "Opinion of
3 Cohen and Pollay, CA," content analysis, "Opinion
4 of Cohen and Pollay, content analysis cannot be
5 used to effect of content analysis on p-o-s-e of
6 consumer. "Caused" and an arrow. I don't have
7 the vaguest idea what that is. It was obviously
8 brilliant and it's gone forever.

9 Q. Page 488.

10 A. "Key point, does he have enough. I DK,"
11 that is, I don't know, "what he knows or has.
12 Question: "You've testified over the last few
13 days that you feel you know about Rose Cipollone
14 and that you would know enough about her to
15 predict her behavior. Describe for me based on
16 that understanding of Rose Cipollone her
17 personality. From a personality standpoint, what
18 kind of woman was Rose Cipollone?"

19 At this point I thought Joel, do you
20 have enough information to make that statement,
21 get out of that, don't answer it, I can't imagine
22 you have enough information but I don't know what
23 you know. I don't know how much information you
24 have and so that's what the comment said.

25 Q. How much information would you need?

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Kassarjian - direct

1 MR. BLEAKLEY: Objection to the form
2 of the question.

3 A. A whole lot to predict the personality of a
4 person, three, four years of psychoanalysis maybe.

5 MR. BLEAKLEY: I need a break.

6 MR. EDELL: Anything to accommodate
7 you.

8 (Short break.)

9 Q. Let's start with the summer 1987
10 version, the revised version you have there.

11 A. Revised July 1987.

12 (Kassarjian Exhibit 3 marked for
13 identification.)

14 Q. I show you what has been marked
15 Kassarjian Exhibit 3. That's Professor Pollay's
16 summer 1987 content analysis. On the first page
17 it says, "Put on stand."

18 A. I was mumbling to myself. What the hell
19 does a curator mean and maybe if you put him on
20 the stand, you'll find out what a curator of
21 history archives means.

22 Q. Have you seen his curriculum vitae,
23 sir?

24 A. Yes.

25 Q. When were you showed his curriculum

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Kassarjian - direct

1 vitae?

2 A. About the end of July 1987. It came with
3 the report.

4 Q. Do you have any comments with respect
5 to his curriculum vitae?

6 MR. BLEAKLEY: Objection to the form
7 of the question.

8 A. No. It lists his articles. That's all.

9 Q. Let's go through the content
10 analysis. The first comments are on page three.

11 A. Yes. I had a very, very difficult time
12 understanding what this man did. It's just a
13 string of numbers. As I was trying to figure out
14 where he got these things and how many missing
15 cells, how many missing quarters and so on, I was
16 just numbling trying to figure it out. Later I
17 figured out that Cohen couldn't figure it out.
18 Whoever commissioned it couldn't figure it out and
19 then you made him rewrite it and there's the
20 revised version, which is better.

21 Q. You say, "Not random but okay if
22 legitimate"?

23 A. Yes. I'm not hung up on pure randomness on
24 this kind of thing because one has to weigh out
25 the cost of doing a perfect study versus the

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Kassarjian - direct

1 quality of results that's going to come out at the
2 other end so it didn't -- I think there's some
3 problems with the sampling but the fact that this
4 wasn't random, which might bother other people,
5 does not bother me.

6 Q. Page four.

7 A. I couldn't figure out what a pile is. Later
8 he makes it clear. I never could figure out who
9 his judges were. That he does not make clear in
10 this later report. He used Canadian students,
11 many of them, Canadian doctoral students. Many,
12 many doctoral students throughout the world are
13 Indian, so a goodly number of his Canadian
14 doctoral students are probably Indian so we have
15 judges that are probably Indian Indian, I mean
16 East India, people from the country of India, not
17 American Indian.

18 Q. Are you basing the statement on
19 probability?

20 A. Probability, because I don't know. He does
21 not make clear who his judges are.

22 Q. Similar to the probability that we
23 discussed with regard to people leaving the arena
24 and going to the parking lot?

25 MR. BLEAKLEY: Objection to the form

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Kassarjian - direct

1 of the question:

2 A. No, not similar to that.

3 Q. This is more precise?

4 MR. BLEAKLEY: Objection to the form
5 of the question.

6 Q. Sir?

7 A. No, it's not more precise.

8 Q. Do you know whether they were Canadian
9 or whether they just attended school in Canada?

10 A. I have no idea who the judges are. What I'm
11 saying is that it is not clear enough for us to
12 find out who they are.

13 Q. In the left-hand column you have some
14 notes which I can't read on the copy I've been
15 furnished.

16 A. Too bad. I didn't intend to have this --
17 these are notes to myself intended to be read only
18 by me. That just kind of says fiddle.

19 Q. Fiddle with respect to what?

20 A. All of this detail on how he got judges and
21 how he did this and how he did that and so I just
22 kind of got bored of reading it and said fiddle,
23 you are trying to impress your client.

24 Q. It wasn't important?

25 A. It wasn't to me.

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Kassarjian - direct

1 Q. Page five?

2 A. I was concerned on this page that the
3 doctoral students he used for judges were not
4 naive. As it turned out later with the new
5 version, I saw the instructions he gave the judges
6 which were bad news. We do not have naive
7 subjects here and that bothers me a lot.

8 Also all of this detailing on what
9 kind of jobs these people had, I thought was,
10 again I just kind of thought that this was
11 foolishness to put this in a report and if all of
12 these are so damn important, if this kind of thing
13 really, really is important, then why don't you
14 tell us the really, really important stuff on the
15 average age of your, although he hints at it, of
16 your subjects and whether, and the fact that the
17 Canadian and very possibly East Indian because he
18 is asking them to make assumptions about how the
19 world was in different eras of time, the twenties,
20 thirties, forties, but when you've got a 22-year
21 old kid who was not yet born when the surgeon
22 general's report came out who then has to worry
23 about the moral climate of the 1920s, 40 years
24 before he was born, I worry about that, and then
25 if it's the moral climate of the United States,

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Kassarjian - direct

1 which is a foreign country to a Canadian and very
2 foreign to an East Indian, I worry about that.

3 Q. Didn't you tell us that you can do a
4 content analysis with regard to editorials back in
5 the early part of the development of our country?

6 MR. PARRISH: Object to the form of
7 the question.

8 A. Yes, but you don't tell judges imagine that
9 you're living in the year 1776 and judge this as
10 if you were living in 1776. What you say is
11 according to today's standards, what do you say
12 and that was a mistake he made. If it's important
13 to have all this detail about judges, let's talk
14 about really what's important. If it isn't
15 important, it isn't important. Then we don't need
16 all the detail.

17 Q. Do you think that there was some
18 cultural bias that existed in this content
19 analysis?

20 MR. BLEAKLEY: Objection to the form
21 of the question.

22 A. Pollay is concerned about that. He is
23 concerned about impressing the reader about how
24 closely his panel of judges imitates a jury. It
25 is almost like a shadow jury. If that's

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Kassarjian - direct

1 important, I'm not claiming it is, but if that's
2 important, he should be worried about the cultural
3 biases which are there which he never discusses.

4 Q. I'm asking you whether or not you
5 think there is any cultural bias in the content
6 analysis that was performed here.

7 A. I don't know. I don't know because I don't
8 know the details of exactly how it was done. As
9 soon as I'm allowed to see the worksheets, the
10 questionnaires, the details, the statistical work
11 product, the worksheets, then I'll be able to make
12 some conclusions about that. I've asked for them.

13 Q. What will they reflect in regards to
14 cultural bias?

15 A. The procedures used, and from the procedures
16 used, I can make assumptions about possible
17 cultural bias.

18 Q. What presumptions can you make with
19 regard to cultural bias?

20 A. None until I see what he has done.

21 Q. If there was cultural bias, what would
22 you expect to find?

23 MR. BLEAKLEY: Objection to the form
24 of the question.

25 A. I don't know.

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Kassarjian - direct

1 Q. Let's turn to page six.

2 A. "Probably conducted in Canada." It wasn't
3 even clear in this paper where this study was
4 conducted and so I was assuming that it was
5 probably conducted in Canada, which was a good
6 assumption as appeared later.

7 Q. It says, "Blacks and Jews study."

8 A. Just to remind me of a couple of studies
9 that are out there showing what you were calling
10 cultural bias or interviewer bias.

11 Q. What studies are those?

12 A. I don't remember the authors. There's one
13 study that asked people -- there are two of
14 them. One of them asked blacks during World War
15 II, do you think it's more important to beat the
16 Nazis or make democracy work at home.

17 Just a few of us remember "Make
18 democracy work at home" was the code word for
19 prejudice. Today it's civil rights. In those
20 days it was make democracy work. So blacks were
21 asked whether it's more important to beat the
22 Germans or make democracy work at home and they
23 used black interviewers and white interviewers on
24 black respondents and the results showed, if I
25 remember correctly, with black interviewers, 79

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Kassarjian - direct

1 percent said it was more important to make
2 democracy work at home than beat the Germans.
3 With white interviewers, 30 percent said it was
4 more important to make democracy work at home than
5 beat -- just flip-flop.

6 Q. There were no interviewers, were
7 there?

8 A. No. It's just an example of the kind of
9 bias that goes into a study and you have judges
10 instead of interviewers. That's all. It's not an
11 important point. It wasn't intended for you. It
12 was just intended to remind me of a study.

13 Q. There's a statement, "I doubt it."
14 What is that?

15 A. "I doubt it in papers," meaning I doubt it
16 in papers. He claims the judges were blind to the
17 allegations and what it's all about and yet in his
18 instructions, it turns out later he told them
19 exactly what it was about and the judges were not
20 blind.

21 At the time that the study was being
22 done, at least in the Los Angeles papers, there
23 were all kinds of articles about the smoking
24 lawsuits, some kind of a lawsuit in Santa Barbara
25 that one side or another had won and there was all

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Kassarjian - direct

1 kinds of discussion about what the implications
2 were so I just doubt the judges were blind.

3 The rest of it says, "Flaw, ages are
4 young." I may have discussed that before. It's
5 talking about the ages of these judges, most of
6 them being born before the surgeon general's
7 report.

8 Q. Where is it indicated that they were
9 asked to judge the ads by attempting to evaluate
10 them with regard to the standards of the
11 particular time in which the ads appeared?

12 A. Right at this point although it's also in
13 the instructions. They were cautioned as well
14 about not judging actions in history by today's
15 regulatory, legal or moral standards because
16 medical knowledge and laws may have changed. How
17 can you possibly judge anything except according
18 to your present standards? How can you judge then
19 by standards you don't have?

20 Q. What's this little bell curve over
21 here?

22 A. I was trying to, using his figures, since
23 there was no work product here, back-analyze his
24 data and guess the average age because he wouldn't
25 tell us, and from that I guessed it was 25, 26.

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Kassarjian - direct

1 It was just my statement to back-analyze his data.

2 Next page, I say, "Not the way ads are ever
3 read."

4 Q. How are ads read?

5 A. He is asking them in one place, very
6 confusing, here he tells us he wants these people
7 to read ads carefully, including all the fine
8 print that may well provide clarity of
9 understanding but they need not hunt for hidden
10 clues. Later on he says don't read the fine
11 print, that's not the way ads are read, so I don't
12 know what he did except that he contradicts
13 himself and I said people do not sit there and
14 take an ad and read all the fine print. They look
15 at the ad. Later he says that he told them to do
16 that and I don't know what he did. He contradicts
17 himself in the two reports.

18 Q. On page seven you have comments at the
19 right-hand column that you crossed out.

20 A. Yes.

21 Q. What are those?

22 A. Because last night when I got the new
23 version, I had them together to see what the
24 differences were and I was writing a comment on
25 the new version, I thought. It turned out I had

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Kassarjian - direct

1 written it on the old version so I quickly wrote
2 it on the new version because I remembered that
3 this had been Xeroxed and I figured if my copy
4 looks any different than your copy, you will jump
5 down my throat so I better get rid of it off this
6 version and put it on this version and then I
7 couldn't get rid of it and you caught it.

8 Q. I didn't jump down your throat,
9 though.

10 MR. BLEAKLEY: Not yet anyway.

11 A. So that's what that is.

12 Q. Turn to page eight.

13 A. Nothing. Just blah. Nothing, page nine,
14 there's nothing.

15 Q. What does the 85 percent mean, sir?

16 A. He is talking about his reliability figures
17 of 80 percent or higher and I just thought to
18 myself the demo better be better than 85 percent.
19 His data is better than 85 percent.

20 Q. Then there's a comment, "No! Error in
21 logic."

22 A. That's just a dumb statement here. "In these
23 files, any inter-judge differences, whether due to
24 coding errors or true (and hence to be tolerated)
25 differences." What he is saying is there are two

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Kassarjian - direct

1 kind of error, bad ones and the kind you can
2 tolerate, and I thought come on, error is error,
3 what do you mean by tolerate some and tolerate
4 others. Cut the bullshit is what I was saying.

5 Q. Page ten.

6 A. I couldn't figure out what his brackets
7 meant. I couldn't understand his writing style.
8 In the new version, I figured it out. Here I say,
9 "Get all the data worksheets, et cetera." Those
10 are important. Because in any kind of scientific
11 research, one must save your material so that it
12 can be looked over by other people. Otherwise
13 it's not just, not good science so I want to get
14 those.

15 Q. You've done a number of content
16 analyses, have you not?

17 A. Yes.

18 Q. Have you ever done a content analysis
19 of information that appeared some number of years
20 ago?

21 A. Surely.

22 Q. What instructions did you give the
23 judges who performed the content analysis?

24 A. One of them concerned blacks and I have to
25 define what a black was and one of the questions

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Kassarjian - direct

1 was is there a black in this picture, what is the
2 sex, by male I mean wearing pants and looking
3 masculine, by female I mean maybe wearing a dress
4 but maybe long hair but looking feminine, perhaps
5 having breasts, that type of thing, trying to
6 define what female is in an ad, what their age is
7 and gave some ranges and then wanted to know what
8 their occupation was and gave some choices and so
9 on. Normal stuff. I didn't ask them to imagine
10 what they thought blacks were in 1946. I asked
11 them to talk about what blacks are. Here is what
12 I mean by black, today's definition. He is asking
13 these people, of course, he can do whatever he
14 wants. But he is asking people to not use
15 standards of today but to use standards as they
16 were 60 years ago of people who are only 25 years
17 old.

18 Q. Does he say that?

19 A. Yes.

20 Q. Where does he say that?

21 A. I read it to you.

22 Q. I know but I didn't see "use the
23 standards of forty years ago."

24 A. He says they were cautioned about not
25 judging actions in history by today's regulatory,

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Kassarjian - direct

1 legal or moral standards. That's the way I
2 interpreted that statement.

3 Q. Where is there a reference to the ads,
4 as to how they should judge the ads?

5 A. That's what we are talking about.

6 Q. I must have missed it. What page are
7 we talking about?

8 A. Page six. Also in his instructions to the
9 judges.

10 Q. I thought it was talking about actions
11 as opposed to the ads.

12 A. They have been giving instructions to judge
13 ads, not to judge actions. All they've got is
14 ads.

15 Q. Page 12.

16 A. Just mumbling to myself trying to make sense
17 of what the hell he did, trying to figure it out.

18 Q. Did you figure it out?

19 A. Well, because I had the new one, I was able
20 to do much better.

21 Q. How was the intrajudge reliability?

22 A. Interjudge reliability is fine. Intrajudge
23 reliability is a little bit strange. Not that the
24 numbers are bad. The numbers are good but that
25 intrajudge reliability is kind of a relatively new

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Kassarjian - direct

1 idea he has brought in. He gives the
2 impression -- as I supposed to shut up or go on?
3 Do you want details on this stuff?

4 Q. Please.

5 A. He has 17 judges. Then he talks about these
6 judges ranged in age from such and such to such
7 and such and they had these occupations, giving
8 impression to you that there's this wide spread of
9 people, that it's a representative sample of
10 people, but each ad was only seen by two judges.
11 Every ad was only seen by two judges. He doesn't
12 tell us who these two judges are. For example, we
13 don't know that the people who called product
14 glamour, luxury, only 2 people saw these ads, not
15 17, 2. They may have been 40 years old; they may
16 have been East Indian. We know nothing about
17 them. It doesn't give us data. That's why I
18 wanted to see the work product.

19 Q. How many judges should he have used?
20 Is two not enough?

21 A. There's nothing wrong with two. I would
22 have done it slightly differently. I would have
23 had all judges rate across categories. He had
24 only two judges per category but I think the two
25 judges per ad is fine. I'm not objecting to

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Kassarjian - direct

1 that. It's just different than I would have done
2 it. That's all.

3 Q. Page 13.

4 A. These things on the side are merely
5 repeating what's across the top because he has
6 this funny way of laying things out. 1938 to 1942
7 I kind of decided was before World War II type of
8 advertising. 1943 to 1947 was after the war, 1948
9 to 1953, smoking, whatever I was thinking of,
10 something about smoking, 1954 to 1959 a lot of
11 studies were being done. The surgeon general came
12 out in '64, 1965. I don't remember what H meant
13 in 1966. Stronger H in '70. It must mean
14 health. There was a period here where I've called
15 and maybe other people have called the
16 self-destruct era where cigarette advertising did
17 nothing but tell you how horrible the product was
18 but giving all these health claims in it and maybe
19 that's what I meant, these self-destruct health
20 ads. That's all.

21 Q. At the bottom it says negative. What
22 is that?

23 A. "Negative N plus health." He did a funny
24 thing. When he is talking about health ads, he
25 has defined two kinds of health ads. He has

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Kassarjian - direct

1 combined those kinds of ads that might imply smoke
2 our brand and you will become macho, sexy, healthy
3 and wealthy. You know, if you smoke our
4 cigarettes, wonderful, it's better than vitamin
5 pills. He is combining the kind of ad which is
6 very negative, which says cigarette smoking is bad
7 for you but if you must smoke, smoke our brand
8 rather than the competitor's brand, with needed
9 money. Anything that had anything to do with
10 health he is combining but health, there's two
11 things. I would have divided these ads that imply
12 healthy condition if you smoke versus those ads
13 that imply you are going to drop dead, baby, if
14 you smoke and he is combining them together and
15 calling them health ads.

16 Q. You think that's incorrect?

17 A. I would have separated them. I would like
18 to see what the differences are.

19 Q. It is your opinion that that is a
20 serious flaw in this content analysis?

21 A. It depends on how that's to be interpreted.
22 Pollay does not interpret his data. He never has
23 an interpretation.

24 Q. Do you know whether or not Dr. Cohen
25 has interpreted Professor Pollay's data?

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Kassarjian - direct

1 A. I don't remember enough on that because -- I
2 had seen the study. I was watching for it and
3 unless I'm wrong, Cohen merely says it's one of
4 the things he read and does not interpret it.
5 They are throwing the data out and not
6 interpreting it and as long as they don't
7 interpret it, it doesn't matter. So they are
8 combining them. No harm in combining them. The
9 harm is in what interpretation you give that.
10 This is just a cross-correlation. Table 3 is
11 nothing.

12 Q. Do you find any fault in the
13 categories in which Dr. Pollay grouped these ads?

14 MR. BLEAKLEY: Object to the form of
15 the question.

16 A. I don't know if I would have done the same
17 or not. I don't know.

18 Q. Page 15.

19 A. At this point, I didn't know yet whether he
20 was going to interpret his results particularly or
21 what was coming of it and in the '72 to '83 era, I
22 put in "negative health claims." It appears as
23 if, Pollay doesn't do this, but you look at these
24 figures and it appears as if the number of health
25 claims are increasing between '70 and '83. See

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Kassarjian - direct

1 how the numbers are getting bigger?

2 Q. Yes.

3 A. The problem is if you think about the ads
4 that were running at those times, these were all
5 negative ads. These were all ads that said our
6 crappy product is better than their crappy product
7 because we are lower tar, use ours. That's
8 basically the image these cigarette ads was
9 giving. It was these self-destruct ads.

10 Q. What ads?

11 A. The cigarette ads at the time.

12 Q. Did you see the ads?

13 A. No. I can remember the ads of the
14 seventies.

15 Q. Tell me the specific ads. What
16 brands?

17 A. Lower in tar and nicotine, smoke Carlton,
18 and then a list of brands A, C, D and there's an
19 ad for you.

20 Q. Give me all the ads that you are
21 referring to.

22 A. There were some like that for a product
23 called Melaire. There was period where all of the
24 ads listed tar and nicotine content.

25 Q. I want to know all the ads you can

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Kassarjian - direct

1 recall for that period.

2 A. I have. I've just given all the ads I can
3 recall.

4 Q. That was for ten, fifteen years ago?

5 A. '72 to '83. As it turns out, since Pollay
6 does not interpret those, does not give it any
7 meaning, the comment is irrelevant.

8 Q. There are no comments with regard to
9 pages 16 through 19.

10 A. No, no problem.

11 Q. You have the revised version?

12 A. Right.

13 MR. EDELL: Mark this, please.

14 (Kassarjian Exhibit 4 marked for
15 identification.)

16 Q. I show you what has been marked
17 Kassarjian 4. Turn to page five, please,
18 left-hand column. What does it say?

19 A. I wrote on the edge, "Sloppy-use libraries
20 and color Xerox or 35 millimeter slides or color
21 photos." On the bottom, "Sloppy but okay."

22 Q. What does that mean?

23 A. What he did was to go running around and try
24 to buy magazines. He chose two things, Life and
25 Look because he wanted the actual magazine. Had

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Kassarjian - direct

1 he gone to libraries and used color Xeroxing which
2 does a beautiful job or 30 millimeter slides, he
3 could have had a better sample than two magazines
4 which stopped publication in the middle of his
5 study and two publications were very specific
6 middle class publications. He had nothing like
7 Cosmopolitan, nothing like New Yorker in there so
8 if I were doing it, I would have been more
9 concerned about having a distribution of
10 magazines, a good distribution of magazines, and
11 if I couldn't buy them, then I would just either
12 color Xerox them or make color photographs of the
13 slides and use those. He felt it was more
14 important to have the actual magazines and risk
15 the sampling, getting a good sample of ads.

16 Q. Is that a serious flaw?

17 MR. BLEAKLEY: Object to the form of
18 the question.

19 A. It depends on what one does with it. It
20 depends what claims you will make for the
21 results. Otherwise not.

22 Q. What types of claims would you believe
23 render this sampling to be flawed?

24 A. Any time you are talking or implying that
25 this sampling is a representative sample of

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2017006870

Kassarjian - direct

1 magazines, that. this is what the information
2 environment was really like, no, no, no. This is
3 what Look and Life were like while they
4 published. If you want to talk about a sample of
5 all the magazine ads in the world and if that's
6 what you imply you've got here, then it's a
7 problem. If you don't do that, then no problem
8 and they don't do that. They make no
9 interpretation or claims about the study. They
10 are letting you do that.

11 Q. What were the demographics of Life and
12 Look during this time period?

13 A. I don't know. It was just main line middle
14 class.

15 Q. What was Rose Cipollone?

16 A. I have no idea who Rose Cipollone is.

17 Q. You don't know whether she was main
18 line middle class or not?

19 A. I don't even know what state she lived in.

20 Q. Page six.

21 A. Just piddling around with the data here. "50
22 to 60 ads missing." That's 50 to 60 ads missing.
23 Somehow he shipped all these things to Canada and
24 the customs officials wouldn't let it through and
25 a big hunk of his ads disappeared in customs and I

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Kassarjian - direct

1 guess it was in there that they were missing.

2 "Ceased publication," I thought that
3 was a poor choice. Of all the magazines to use,
4 use two of them that ceased publication during
5 your study. Use Time. Here I said the same thing
6 as I said before, here is a distribution of
7 magazines, for example, that was a little wider,
8 covered more people. He covered about 182 issues
9 with 31 missing cells. That is, there were some
10 years he couldn't find the magazines and used
11 magazine dealers and never thought of going to the
12 library and photographing them or didn't. That's
13 all. Just piddling with his data.

14 Q. Are you aware of any content analysis
15 of advertising during the period of 1938 to '83
16 that included a larger sampling of ads than this
17 study?

18 A. Any conceivable content analyses?

19 Q. There may be dozens of them?

20 A. No.

21 Q. Have you ever reviewed an article
22 which was written as a result of a survey of ads
23 during the period 1938 through 1983?

24 A. Your question was do I know of any survey
25 that used a larger number of ads.

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2017006872

Kassarjian - direct

1 Q. Largest sampling of ads.

2 A. Does it mean ads or --

3 Q. Advertisements.

4 A. There were a number of studies, many studies
5 out there. You are asking me if I can remember
6 how many ads in each study were seen and if any of
7 those were greater than this one. I don't know.

8 Q. Do you know whether or not the
9 advertising that appeared in Life and Look was the
10 same advertising carried by the New Yorker,
11 Cosmopolitan and these other magazines or whether
12 it was different?

13 A. If it's the same, then that helps my
14 concern. If it's different, then my concern is
15 serious. I don't know that. I will know it when
16 I see his worksheets, if I ever see his
17 worksheets.

18 Q. Did you inquire of any of the
19 defendants whether or not their advertising
20 differed from Life and Look as it compared to
21 these other magazines that you listed?

22 MR. BLEAKLEY: Object to the form of
23 the question?

24 A. I have asked the defendants nothing about
25 their advertising.

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Kassarjian - direct

1 Q. Did they turn furnish you any
2 information with regard to their advertising?

3 A. I have seen nothing from the defendants
4 regarding their advertising. I have listed to you
5 everything that I've seen already.

6 Q. The only advertising that you were
7 furnished by the defendants were these ads here,
8 right?

9 A. Yes.

10 MR. EDELL: Let's mark this as
11 Kassarjian Exhibit 5.

12 (Kassarjian Exhibit 5 marked for
13 identification.)

14 Q. These ads that we marked as Kassarjian
15 Exhibit 5, do you know how they were chosen?

16 A. I have no idea. All of a sudden I had them
17 and I figured somebody is going to say bring
18 everything you ever saw so I brought them. I
19 don't know where they came from, why I got them or
20 what they mean.

21 Q. You don't know what they are
22 representative of?

23 A. No.

24 Q. Page seven.

25 A. Page seven, "What happened to duplicate

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2017006874

Kassarjian - direct

1 ads," I wonder what he did when an ad appeared
2 twice. Later he explains it. The next comment is
3 "Canadian and probably Indians," probably some
4 Indians when he is talking about graduate students
5 and I've discussed that. I felt at this point
6 that I began to worry about was he prejudicing his
7 judges from the way he recruited them and the way
8 he instructed them and the way he sorted them out
9 and that's what these comments are.

10 At one point he says, for example,
11 "Entirely educated in English" but Indian students
12 would be entirely educated in English.

13 Q. It says "Key bias of topic." What
14 does that mean?

15 A. I don't remember what that means. I mention
16 that. It's where I began to worry about was he
17 biasing his judges. That's all.

18 Q. In what way was he biasing his judges?

19 A. By all the instructions, by telling them
20 what it's about, telling them it's about major
21 court proceedings, it's open to smokers. He gave
22 an enormous amount of sorting out. They had to be
23 over 21, they had to do this, they had to do
24 that.

25 Q. You think that's not proper?

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Kassarjian - direct

1 MR. BLEAKLEY: Object to the form of
2 the question.

3 A. I would not have done it that way.

4 Q. My question is do you think that in
5 your opinion was improper?

6 MR. BLEAKLEY: Object to the form of
7 the question.

8 A. I don't know what improper means. I don't
9 know if there's bias there. I answered that
10 before by saying I don't know if there's bias.

11 Q. From the instructions and the
12 information that you've seen, you can't determine
13 whether or not there is bias?

14 A. It's a problem that I worry about. I hope
15 that sometime we can sort that out if this is
16 going to go any further.

17 Q. Do you have an opinion as to whether
18 or not the study was biased?

19 A. Yes, there's biases in the study. How
20 important those biases are, I don't have an
21 opinion on yet.

22 Q. What biases are in the study?

23 A. There's all types of biases, from the way
24 you instruct your judges to who the judges are,
25 the fact that only two judges were used for a

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Kassarjian - direct

1 product, not the same judges judged health and
2 judged vitality and judged male-female. Those
3 were not the same judges judging those
4 characteristics so I don't know if there's
5 interjudge disagreement across categories. The
6 potential for bias is there. Whether it's biased
7 or not to the point of being a fatal flaw, I don't
8 know.

9 Q. I'm not asking you about the
10 potentials for bias. What biases are you aware of
11 in this study as we sit here today?

12 MR. BLEAKLEY: Object to the form of
13 the question.

14 A. I'm telling you I think there's the
15 potential for bias here and there. I don't know
16 what biases exist today.

17 Q. Page eight.

18 A. Comment, "Irrelevant, gloss for layman."
19 Just some comment he made that I thought, he threw
20 someone out because their mother died of
21 secondhand smoke in the workplace. Oh, come on.
22 That may impress the client but it isn't
23 impressing me. The judges used were not peers in
24 the sense of peer. He makes it appear that he
25 tried very hard to get a jury of judges that are

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Kassarjian - direct

1 peers. They were not peers of these people. They
2 were not peers of Rose Cipollone. These are
3 Canadian students and on the average in the mid
4 twenties of age and that is not a peer for these
5 products. That's all.

6 Q. Is it your testimony that the only way
7 to perform this content analysis was to have
8 gotten judges similar to Rose Cipollone?

9 A. Absolutely not. Exactly the opposite.

10 Q. Is it your testimony that the study is
11 flawed because of the judges who were used in the
12 study?

13 MR. BLEAKLEY: Object to the form of
14 the question.

15 A. It is not flawed because of that reason.
16 However, it is Mr. Polley that makes a big issue
17 of how his judges are representative and I'm
18 claiming his judges are not representative. I'm
19 not saying they should be. He's saying they
20 should be.

21 Q. Read the rest of the handwriting on
22 the page.

23 A. On the side I have, "Thinks he is pretty
24 important." It sounds like he thinks he is pretty
25 important. Trying to be a lawyer arguing a case

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Kassarjian - direct

1 rather than acting like an impartial scientist."
2 I picked that all up on a phrase. "This panel of
3 17 judges, like many juries, is an interesting and
4 diverse assortment of individuals." I don't know
5 what lawyers call it but it sounds like that
6 argument they have at the end of the case when
7 they rant and rave to the jury and smile at them
8 and giggle at them and so on. He is acting like a
9 lawyer. Act like a scientist.

10 Q. Would you continue reading what's on
11 the page.

12 A. "Not peers in education." These people are
13 all graduate students. If being a peer is
14 important -- I don't know claim it is -- but if it
15 is important, then he should have been worried
16 about the fact that his judges were not the same
17 education as the average person. What I'm again
18 trying to find out is the age, how old they would
19 have been at the time of the surgeon general's
20 report.

21 On the bottom I've written, "If all
22 this is important," and again I'm not saying it is
23 important, but if it's important, then the age
24 biases and the cultural biases are severe
25 problems. Next page I have judges were not blind

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Kassarjian - direct

1 to the purpose of the study.

2 Q. You don't know that, though, do you?

3 A. No. I'm assuming that. Wait a minute. No,
4 I do know that. I have the instructions read to
5 the judges and it's pretty strong, pretty damn
6 strong. He tells them what it's about. He tells
7 them that they are going to be dragged in front of
8 a high court, that they are going cross-examined
9 and horrible things are going to happen to you,
10 now do the job.

11 Q. You think that flaws the study, sir?

12 MR. BLEAKLEY: Object to the form of
13 the question.

14 A. I think it is a flaw in the study. Whether
15 it's a fatal flaw or not, I don't know.

16 Q. You don't have an opinion?

17 A. Not with the data I have.

18 Q. What would you need to look at in
19 order to determine whether or not it was a fatal
20 flaw?

21 MR. BLEAKLEY: Object to the form of
22 the question.

23 A. To do anything with a study, one must see
24 the total package of goods, I want to see the
25 questionnaires, I want to see what the judges

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Kassarjian - direct

1 filled out, I want to see his early analyses, I
2 want to see the memos that went back and forth on
3 what he was supposed to look for and so on. You
4 have to see the whole package, not something
5 that's been prepared and carefully culled for
6 presentation.

7 Q. When you review articles on content
8 analysis in journals, are all these preliminary
9 worksheet information contained in the journals?

10 A. I want to give you an answer to that
11 question and it will go off on a tangent and I
12 don't know if you want me to do that.

13 Q. All I want you to do is answer the
14 question.

15 A. There are two approaches to truth. One is
16 what we call the scientific method. The other is
17 what we call the advocacy method. In the advocacy
18 method, the philosophy is that two biased
19 representatives will present data with bias, each
20 trying to make the strongest case for their side
21 to a third party, a judge or a jury, and the judge
22 hearing both biased cases, designed to be
23 one-sided, will be able to approach and touch the
24 truth. That's advocacy research.

25 In scientific research, the assumption is

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Kassarjian - direct

1 that a scientist will do his damndest not to have
2 any bias at all. Everything he presents is
3 absolutely honest, whether it's favorable to his
4 case or not favorable to his case, and that
5 anything he writes on paper can be fully accepted
6 as being highly credible. If he lies, terrible
7 things happen to him. He gets drummed out of the
8 court. Therefore, you can believe everything a
9 scientist says.

10 In the advocacy position, you must
11 listen to both sides before you can come out to
12 what the truth is. We don't have the same demands
13 on scientific research that go into the journals
14 as we do on advocacy research because we know in
15 advocacy research, the material has been carefully
16 prepared to present one side of the story and not
17 the other. With scientific research, we assume
18 the scientist is an honest man and has presented
19 both sides, so this is advocacy research and
20 therefore we need to see everything since it has
21 been designed to prove a point.

22 Q. When you say this is advocacy
23 research, you're referring to Professor Pollay.
24 Is that correct?

25 A. That's right.

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Kassarjian - direct

1 Q. Your work in this case, is that
2 advocacy work?

3 A. Yes, of course.

4 Q. Therefore, we have to look at
5 everything that you've done because you are
6 biased. Is that correct?

7 MR. BLEAKLEY: Object to the form of
8 the question.

9 A. That's why you'll be cross-examining me.

10 Q. Is that correct?

11 MR. BLEAKLEY: Object to the form of
12 the question.

13 A. That's why you'll be cross-examining me.
14 That's the purpose of advocacy procedures. Both
15 sides present their sides. The expert witness as
16 scientist, which I'm trying to be, does his
17 damndest to present it as he sees it to be true.
18 It is your job in advocacy research to try to tear
19 me apart and it is Mr. Bleakley's job to tear your
20 witness apart because we are playing with a
21 different set of rules when we are on your
22 territory than when we are on my territory.

23 Q. Where did you come to this
24 information, sir?

25 MR. BLEAKLEY: Object to the form of

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Kassarjian - direct

1 the question.

2 A. You want my opinion? I gave it to you.

3 Q. Where did you come up with this
4 information? Did you learn it from the scientific
5 journals or from the lawyers you work with?

6 MR. BLEAKLEY: Object to the form of
7 the question.

8 A. That is my opinion on the differences
9 between advocacy research and scientific research.

10 Q. What do you base that on?

11 A. I base that on my own knowledge of both
12 types of research.

13 Q. Of being an expert in litigation
14 matters over the last ten, fifteen years?

15 MR. BLEAKLEY: Object to the form of
16 the question.

17 A. Yes.

18 Q. Working with lawyers in cases?

19 MR. BLEAKLEY: Object to the form of
20 the question.

21 Q. Is that correct?

22 A. We are talking about a philosophical
23 position. That's all I'm presenting to you. Take
24 it or leave it.

25 Q. What leads you to conclude that the

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Kassarjian - direct

1 work performed by Professor Pollay is not
2 scientific work?

3 A. It's paid for and signed, sealed and
4 delivered to an attorney on one side of this case.

5 Q. Therefore, it's not scientific?

6 MR. BLEAKLEY: Object to the form of
7 the question.

8 A. I didn't say that. I said it was advocacy
9 research.

10 Q. What do you base your statement on
11 that it's not scientific?

12 A. It was paid for, signed, sealed and
13 delivered to an interested party.

14 Q. And, therefore, it's not scientific?

15 A. I didn't say that. I said therefore, it's
16 advocacy research.

17 Q. I understand that. Can it still be
18 scientific if it's advocacy work?

19 A. I don't know unless I can see the man's
20 worksheets. That's why I want to see the
21 worksheets. I don't know if this stuff has been
22 padded or not. I just don't know.

23 Q. Are you aware that the defendants have
24 in their possession copies of all of the
25 advertising that was reviewed in this matter?

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Kassarjian - direct

1 A. I have no idea who has what. I don't have
2 any of it.

3 Q. Could you attempt to replicate the
4 work done by Professor Pollay?

5 A. I would not do it.

6 Q. Why?

7 A. Because I don't like the approach he used.
8 I prefer my own approach.

9 Q. Did you attempt to conduct any content
10 analysis with respect to the advertising that was
11 used by Professor Pollay?

12 A. I just told you I don't have it. You have
13 it.

14 Q. I told you the defendants have it
15 also.

16 A. I don't know who has it. I don't have it.

17 Q. Were you asked to perform a content
18 analysis?

19 A. No.

20 Q. Would it be important to attempt to
21 see whether or not Professor Pollay's work is
22 valid by performing a similar content analysis for
23 ads during the same period?-

24 MR. BLEAKLEY: Object to the form of
25 the question.

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Kassarjian - direct

1 A. I would not recommend it.

2 Q. Why is that?

3 A. I think it's a waste of money. There's not
4 enough data that has come out of it to be
5 worthwhile.

6 Q. In other words, you said that
7 financially it's not worth it but would an attempt
8 to perform a content analysis on ads, cigarette
9 ads for the same period of time give you a better
10 insight as to the validity of Professor Pollay's
11 work?

12 MR. BLEAKLEY: Object to the form of
13 the question.

14 A. I would not conduct it in the same way so I
15 would not replicate it this way. I would do it
16 differently.

17 Q. How would you do it?

18 A. I can't create an ad under these
19 conditions. I can't create an experimental design
20 under these conditions.

21 Q. You had a lot of time to think about
22 it. You went through two reports by Professor
23 Pollay which detailed a content analysis. You
24 spent a lifetime doing work in consumer behavior
25 including content analysis and you can't tell us

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Kassarjian - direct

1 how you would devise a content analysis of the ads
2 which is the subject matter of this litigation?

3 A. But be careful. I don't know what the
4 subject matter of this study is. What is it you
5 want to know? I don't know that. These things
6 take a long time to develop and you want me to do
7 it in fifteen minutes. I can't.

8 Q. You've had more than fifteen minutes
9 to think about the content analysis in this case,
10 haven't you?

11 A. I've had about a minute to think about what
12 study I would design. Up to now I've been reading
13 the study, mostly trying to understand it and then
14 trying to see if I have any objection to it. Not
15 how I would redesign it.

16 Q. Is there anything that was done right
17 in this study?

18 A. Lots of things. This is a good study. I'm
19 not bitching about this study. It's okay. What
20 we are doing is we are playing with piddly little
21 details about what he writes. I don't know what
22 he says. It doesn't add a damn thing to either
23 side I don't think. I have no problem with the
24 study.

25 Q. Page 11.

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Kassarjian - direct

1 A. "Color or black and white." He used 35
2 Xeroxed ads. I don't know if they are color or
3 black and white Xeroxing.

4 Q. Were you aware that Professor Polloy's
5 deposition was taken?

6 A. I think I heard that but I wasn't sure.

7 Q. Do you know whether or not any of
8 these details that you are talking about here were
9 given by Professor Polloy during his deposition?

10 MR. BLEAKLEY: Object to the form of
11 the question.

12 A. I don't know.

13 Q. Did you ask to see the deposition
14 transcript?

15 A. I wasn't even sure there was one.

16 Q. But the lawyers didn't give it to you,
17 did they?

18 A. No, they did not.

19 Q. Page 13.

20 A. "Remarkable. Used a computer." He said he
21 took his data and put it on a computer. I said,
22 "Remarkable, used a computer." On the right-hand
23 side, "Scary detail."

24 Q. Too detailed?

25 A. Come on. Don't bother wasting my time

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Kassarjian - direct

1 giving me all this detail. You punched it into
2 the computer twice. Who cares. If you are a
3 scientist, I assume you did it right. If you are
4 doing advocacy research, then I want to see what
5 you actually did. Don't waste my time. That's
6 all that is.

7 Q. Page 14.

8 A. It says, "It is essential that we see all
9 the data, worksheet, preliminary drafts,
10 interpretations, et cetera." I've already
11 answered that.

12 Q. Page 15.

13 A. 15, this stuff is not intended for Pollay
14 who I also know quite well. It's just notes I
15 wrote to myself and I say here he talks about the
16 coincidence of content so I wrote, "Come on!"
17 That's jargon squared.

18 Q. You know Professor Pollay?

19 A. Sure.

20 Q. You didn't know he was a curator of
21 Archives of Advertising?

22 A. Sure, I knew. I don't know what curator
23 means. I don't know what he does but I knew he
24 called himself the curator.

25 Q. Do you know what Professor Pollay's

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Kassarjian - direct

1 reputation is with respect to content analysis?

2 A. He has done some; in fact, maybe even
3 published one of his papers in my journal. His
4 work is okay. As I said, this work is okay, too.
5 It's different than I would do it but it's okay.
6 It's all right.

7 Q. When was the the last time you did a
8 content analysis?

9 A. I, me?

10 Q. Yes.

11 A. I just finished one now. I presented it?
12 June of 1987.

13 Q. Regarding what material?

14 A. The impact of regulation on the content of
15 advertising, how regulation impacted on what was
16 being said in ads.

17 Q. That was done for scientific purposes?

18 A. It was done to get a publication so I could
19 get a raise and get promoted and become famous.

20 Q. Can you continue on page 15?

21 A. I said wonderful. "This is a full attribute
22 by attribute matrix." I thought isn't that a
23 wonderful mouthful of jargon. Wonderful. That's
24 all.

25 Q. There's more on the page.

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Kassarjian - direct

1 A. Later on I said, "So what, what is the
2 interpretation." Here he is talking about
3 something, whatever it is, but he doesn't
4 interpret his results at all so you are giving us
5 all of this detail on what Table 3 means and how
6 to interpret Table 3, what's in what column, so my
7 comment is isn't that wonderful, a whole table
8 full of numbers, so what, what do the numbers
9 mean. Interpret the data. Tell us what the
10 numbers mean. He carefully avoids that.

11 Q. Page 16?

12 A. "So what does this show about influence of
13 ads." Again on Table 4 he is talking about the
14 cases, the number of times that some kinds of ads
15 appear, that is, positive health ads, negative
16 heads ads, what he calls positive and negative
17 health ads, liveliness ads, that is, that's the
18 macho type ads, and the pure scene, which is a
19 picture of a mountain. He combines those four
20 into a single category in Table 4, says he did
21 that on page 16, never tells us what he means.

22 Why did you combine them, what does
23 the combination mean, what is it all about. He
24 never interprets and my suspicion is he was told
25 not to interpret because this is what you mean by

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Kassarjian - direct

1 advocacy type research. You never tell the other
2 side anything, you make them stretch for it, get
3 it themselves, whereas in a scientific paper, you
4 interpret your data, you tell us what it means so
5 we can look it over.

6 Q. How do you know that?

7 A. How do I know what?

8 Q. How do you know that that's the way
9 experts conduct themselves in litigation?

10 A. I have experience both as a editor and as an
11 author of scientific research. I probably
12 examined, over the last twenty years I've seen
13 many, many studies that were done for purposes of
14 advocacy.

15 Q. In the journals?

16 A. Not in the journals, no.

17 Q. In what? Involved in litigation in
18 which you've acted as an expert?

19 A. Sometimes when I'm an expert and sometimes
20 when I'm not.

21 Q. Is that how you prepare your
22 information when you are acting as an expert
23 witness?

24 MR. BLEAKLEY: Object to the form of
25 the question.

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2017006893

Kassarjian - direct

1 A. We are not talking about expert witness. We
2 are talking about research. We are not talking of
3 my opinion. We are talking of research. Let's
4 not confuse those two facts because they are quite
5 different.

6 Q. Did you prepare a report in this
7 matter?

8 A. I did not.

9 Q. You know a report was prepared which
10 memorializes your opinions. Correct?

11 A. I have no idea if someone wrote a report --
12 a report on my opinion?

13 Q. Yes.

14 A. I have never seen such a thing. There is a
15 statement, a one-page statement, that says what I
16 am going to testify to. If you are calling that
17 one-page statement a report, fine. If there's
18 anything else, I don't have the vaguest idea what
19 you are talking about.

20 MR. EDELL: Would you mark this,
21 please.

22 (Kassarjian Exhibit 6 marked for
23 identification.)

24 Q. Have you ever seen Kassarjian Exhibit
25 6 for identification before, the first page

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Kassarjian - direct

1 specifically?

2 A. (Examining document.) Yes. This is not a
3 report. This is what I meant by a one-page
4 statement.

5 Q. Did you advise the lawyers for the
6 defendants in this matter of other opinions not
7 contained in Kassarjian Exhibit 6?

8 MR. BLEAKLEY: Object to the form of
9 the question.

10 A. I didn't understand what you said.

11 Q. Prior to meeting with the lawyers in
12 this case in preparation for this deposition, did
13 you advise any of the lawyers of any opinions
14 which are not contained in Kassarjian Exhibit 6
15 for identification?

16 A. Did I say anything else besides these 150
17 words? I must have.

18 Q. Express any opinions.

19 A. I probably talked to the various attorneys
20 for several hours. In those several hours, I
21 probably used up, at the rate I talk, 50,000
22 words. Is there anything that was in those 50,000
23 words that is not represented here? I'll be
24 damned if I know.

25 Q. Do you think that Kassarjian Exhibit 6

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Kassarjian - direct

1 fairly and accurately represents all of the
2 opinions that you have with regard to this matter
3 and the factual basis for those opinions?

4 MR. BLEAKLEY: Object to the form of
5 the question.

6 A. I don't understand what you are asking. I'm
7 sorry. Does this represent every opinion I have
8 about everything? Hell, no.

9 Q. That isn't what I said. Does
10 Kassarjian 6 fairly and accurately reflect those
11 opinions and the factual basis for the opinions
12 that you have with regard to this matter?

13 MR. BLEAKLEY: Object to the form of
14 the question.

15 A. I don't know what factual basis means. This
16 accurately does represent my opinion. I have no
17 idea what a factual basis means.

18 Q. Are there any opinions that you have
19 concerning this case that are not contained in
20 Kassarjian 6?

21 MR. BLEAKLEY: Object to the form of
22 the question.

23 A. I don't know. I have opinions on lots of
24 things. If people ask me, I'll tell them.

25 Q. We have to pull it out of you?

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Kassarjian - direct

1 MR. BLEAKLEY: Object to the form of
2 the question.

3 A. Yes. If you want my opinion on President
4 Reagan, I'll tell you.

5 Q. I have to pull it out of you with
6 regard to this litigation. We have to go through
7 this advocacy procedure. Right?

8 MR. BLEAKLEY: Object to the form of
9 the question.

10 Q. Correct?

11 MR. BLEAKLEY: Object to the form of
12 the question.

13 A. I don't understand.

14 Q. You don't understand what we are
15 talking about?

16 MR. BLEAKLEY: Is that a question?

17 Q. Do you understand what I mean by this
18 advocacy proceeding?

19 MR. BLEAKLEY: Object to the form of
20 the question.

21 A. You are up in the upper atmosphere. Let's
22 bring it down to my level. What is it you want me
23 to answer?

24 Q. All I wanted you to do was be truthful
25 and responsive.

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Kassarjian - direct

1 MR. BLEAKLEY: Is that a question?

2 MR. EDELL: No. He asked me and I
3 responded to his question, Mr. Bleakley.

4 MR. BLEAKLEY: I just wanted to make
5 sure you weren't expecting an answer.

6 MR. EDELL: I'm sure you could have
7 heard it.

8 Q. Turn to page 17 of Kassarjian Exhibit
9 4.

10 A. Yes.

11 Q. Could you read your comments, sir?

12 A. "Good numbers." I like the looks of those
13 reliability figures. They are nice high numbers.
14 Very, very good stuff. On the bottom I said, "A
15 bit inflated. Duplicate ads are counted but
16 effect is minimized." Then I try to show that
17 there were about 57 duplicate ads and that would
18 kick up and inflate the numbers but later he said
19 he threw those duplicate ads out and so I crossed
20 off the comment.

21 Q. Turn to page 18.

22 A. Yes.

23 Q. Give us your comments that are
24 contained on page 19.

25 A. 1938 to 42, I just wrote the word prewar

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Kassarjian - direct

1 in. That meant advertising before World War II.
2 For the 1953 to 1959, I wrote self-destruct era,
3 so that's what I meant as the self-destruct area
4 where there was an awful lot of health claims that
5 were pointing out to people that cigarettes were
6 so hot.

7 Q. Tell me about the ads.

8 MR. BLEAKLEY: Object to the form of
9 the question.

10 A. I already did.

11 Q. Do you recall any of the specific ads
12 other than those that you've given to us so far?

13 A. There were many ads at this time that in one
14 way or the other talked about either -- this is
15 before tar and nicotine -- that talked about not a
16 cough in the carload, T-17, constantly talking
17 about the fact that their product was less
18 irritating than a competitor's product. When you
19 say mine is less irritating than the competitor's
20 product, the message that you are giving is they
21 are all irritating and mine is less so.

22 Q. You recall these ads?

23 MR. BLEAKLEY: Object to the form of
24 the question.

25 A. I don't recall all of the ads that were

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Kassarjian - direct

1 developed, all 500 or whatever ads Mr. Pollay
2 has. I've not seen those ads. I don't recall
3 them.

4 Q. You recall the ads you just related to
5 us, the T-zone ad?

6 A. Yes.

7 Q. You recall not a cough in the carload?

8 A. Yes.

9 Q. How many years ago were those ads?

10 A. I don't know when they were run but it was
11 about this period.

12 Q. On page, not numbered, Table 3, you
13 circled two numbers.

14 A. I was just trying to understand what the
15 hell those are. Nothing.

16 Q. Page 20, would you read to us your
17 comments.

18 A. Yes. "Filter, tar" next to the years 1970
19 through 1983 and then I went back and added in
20 1968. I believe this was the period, I believe
21 this was the period when the filter and tar ads
22 appeared, smoke our product because it's filtered
23 or the listing of the tars and I feel these ads
24 again helped warn people of the dangers of smoking
25 cigarettes.

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Kassarjian - direct

1 Q. This is based upon your general
2 impression of the ads; no scientific content
3 analysis. Is that correct?

4 MR. BLEAKLEY: Object to the form of
5 the question.

6 A. That's correct.

7 Q. Can you read your comments on the
8 bottom of page 20?

9 A. This is where I was trying to understand
10 what the numbers mean. What Dr. Pollay did was to
11 take health, that is, positive health, where it
12 claims it's healthy to smoke cigarettes, reduces
13 tension, the negative ads which say cigarette
14 smoking will kill you but your product is better
15 than a competing product, what he called lively,
16 that is, these are the athletic, vim, macho ads
17 and he combined with them the pure scene ads, the
18 picture of a mountain or fresh air, combined them
19 altogether, added them up and listed them and I
20 was trying to understand what the combination
21 could possibly mean and he never told us, never
22 interpreted it.

23 Q. You're assuming that there were some
24 of these negative ads in this content analysis.
25 Is that correct?

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Kassarjian - direct

1 A. No. It isn't I'm assuming. That's his
2 instructions. It comes from his instructions.

3 Q. If there is a negative statement with
4 regard to health, that was to be included?

5 A. As a health ad. Any statement that involved
6 health in any form or manner was to be included.

7 Q. Do you have any other opinions with
8 respect to Professor Pollay's content analysis
9 that you haven't conveyed to us?

10 A. Not that I can think of at this point.

11 Q. Do you have any opinions with respect
12 to Dr. Cohen's opinions that you haven't told us
13 about?

14 A. Not that I can remember at this time.

15 Q. Did you review Dr. Cohen's notes?

16 A. I don't have any idea what Dr. Cohen's notes
17 are. In his deposition he talks about he has
18 several hundred pages of notes he prepared for his
19 attorney. Maybe that's you. I've never seen
20 those notes. I don't know what they are, if
21 that's what you are talking about.

22 Q. Did you review any opinion surveys?

23 A. No, I did not.

24 Q. What effects do advertising ads have?

25 MR. BLEAKLEY: Object to the form of

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Kassarjian - direct

1 the question.

2 MR. EDELL: Maybe it's getting late in
3 the day. I'll try again.

4 Q. What effect does advertising have on
5 consumers?

6 MR. BLEAKLEY: Object to the form of
7 the question.

8 A. That's too much question. That's too broad
9 a question to be answerable.

10 Q. What effect does cigarette advertising
11 have on consumers of cigarettes?

12 MR. BLEAKLEY: Object to the form of
13 the question.

14 A. It's simply too broad for me to manage
15 that. Ask a specific question.

16 Q. Do cigarette advertisements have the
17 ability to persuade consumers with regard to any
18 attributes of cigarette smoking?

19 MR. BLEAKLEY: Object to the form of
20 the question.

21 A. I can't handle a question like that. It's
22 too broad. Any attributes? Have you seen any
23 opinion surveys with regard to the public's
24 impression of cigarette advertising insofar as it
25 relates to health?

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Kassarjian - direct

1 MR. BLEAKLEY: Object to the form of
2 the question.

3 A. I have been presented with no public opinion
4 surveys for these hearings. If they may have
5 appeared in the paper a bunch of years ago under a
6 Gallup poll or something, I may have seen it but I
7 don't remember.

8 Q. Do you have an opinion as to whether
9 or not warnings would have contributed to the
10 information environment regarding cigarette
11 smoking and health had they been provided by
12 cigarette manufacturers in the 1940s?

13 MR. BLEAKLEY: Object to the form of
14 the question.

15 A. I don't know what that question means. Too
16 many ifs in it.

17 Q. Have you had any doctoral students?

18 A. Yes.

19 Q. Have you had any doctoral students who
20 have written papers in the area of cognitive
21 dissonance?

22 A. Joel Cohen.

23 Q. Other than Joel Cohen?

24 A. Not that I recall.

25 Q. Can information affect behavior?

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Kassarjian - direct

1 MR. BLEAKLEY: Object to the form of
2 the question.

3 A. Can information affect behavior? Of
4 course. If I tell you that Tylenol is going to
5 kill you dead, you are going to stop using it.

6 Q. In what way does information affect
7 behavior?

8 A. I just told you. I gave you an example.

9 Q. You gave me an example but you didn't
10 tell me how in scientific terms it affects
11 behavior.

12 A. I have no idea. I don't think that that's
13 known. I don't think it will be known for many
14 years.

15 MR. EDELL: Let's take a short break.

16 (Short break.)

17 (Deposition concluded at 5:20 p.m.)

18

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JURAT

I, HAROLD H. KASSARJIAN, do hereby
certify that I have read the foregoing transcript
of my testimony, taken on October 28, 1987, and
have signed it subject to the following changes:

<u>PAGE</u>	<u>LINE</u>	<u>CORRECTION</u>
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DATE:

Sworn and subscribed to before me on this day
of

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C E R T I F I C A T E

I, MARGARET J. TEILHABER, a Certified
Shorthand Reporter and Notary Public of the States
of New York and New Jersey, do hereby certify that
prior to the commencement of the examination the
witness was sworn by me to testify the truth, the
whole truth and nothing but the truth.

I do further certify that the foregoing is
a true and accurate transcript of the testimony
as taken stenographically by and before me at the
time, place and on the date hereinbefore set
forth.

I do further certify that I am neither of
counsel nor attorney for any party in this action
and that I am not interested in the event nor
outcome of this litigation.

Margaret J. Teilhaber

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